

SHB 1127 - S COMM AMD

By Committee on Parks, Fish & Wildlife

ADOPTED 04/11/2003

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 77.08.010 and 2002 c 281 s 2 are each amended to read  
4 as follows:

5 As used in this title or rules adopted under this title, unless the  
6 context clearly requires otherwise:

- 7 (1) "Director" means the director of fish and wildlife.
- 8 (2) "Department" means the department of fish and wildlife.
- 9 (3) "Commission" means the state fish and wildlife commission.
- 10 (4) "Person" means and includes an individual; a corporation; a  
11 public or private entity or organization; a local, state, or federal  
12 agency; all business organizations, including corporations and  
13 partnerships; or a group of two or more individuals acting with a  
14 common purpose whether acting in an individual, representative, or  
15 official capacity.
- 16 (5) "Fish and wildlife officer" means a person appointed and  
17 commissioned by the director, with authority to enforce this title and  
18 rules adopted pursuant to this title, and other statutes as prescribed  
19 by the legislature. Fish and wildlife officer includes a person  
20 commissioned before June 11, 1998, as a wildlife agent or a fisheries  
21 patrol officer.

22 (6) "Ex officio fish and wildlife officer" means a commissioned  
23 officer of a municipal, county, state, or federal agency having as its  
24 primary function the enforcement of criminal laws in general, while the  
25 officer is in the appropriate jurisdiction. The term "ex officio fish  
26 and wildlife officer" includes special agents of the national marine  
27 fisheries service, state parks commissioned officers, United States  
28 fish and wildlife special agents, department of natural resources  
29 enforcement officers, and United States forest service officers, while  
30 the agents and officers are within their respective jurisdictions.

1 (7) "To hunt" and its derivatives means an effort to kill, injure,  
2 capture, or harass a wild animal or wild bird.

3 (8) "To trap" and its derivatives means a method of hunting using  
4 devices to capture wild animals or wild birds.

5 (9) "To fish," "to harvest," and "to take," and their derivatives  
6 means an effort to kill, injure, harass, or catch a fish or shellfish.

7 (10) "Open season" means those times, manners of taking, and places  
8 or waters established by rule of the commission for the lawful hunting,  
9 fishing, taking, or possession of game animals, game birds, game fish,  
10 food fish, or shellfish that conform to the special restrictions or  
11 physical descriptions established by rule of the commission or that  
12 have otherwise been deemed legal to hunt, fish, take, harvest, or  
13 possess by rule of the commission. "Open season" includes the first  
14 and last days of the established time.

15 (11) "Closed season" means all times, manners of taking, and places  
16 or waters other than those established by rule of the commission as an  
17 open season. "Closed season" also means all hunting, fishing, taking,  
18 or possession of game animals, game birds, game fish, food fish, or  
19 shellfish that do not conform to the special restrictions or physical  
20 descriptions established by rule of the commission as an open season or  
21 that have not otherwise been deemed legal to hunt, fish, take, harvest,  
22 or possess by rule of the commission as an open season.

23 (12) "Closed area" means a place where the hunting of some or all  
24 species of wild animals or wild birds is prohibited.

25 (13) "Closed waters" means all or part of a lake, river, stream, or  
26 other body of water, where fishing or harvesting is prohibited.

27 (14) "Game reserve" means a closed area where hunting for all wild  
28 animals and wild birds is prohibited.

29 (15) "Bag limit" means the maximum number of game animals, game  
30 birds, or game fish which may be taken, caught, killed, or possessed by  
31 a person, as specified by rule of the commission for a particular  
32 period of time, or as to size, sex, or species.

33 (16) "Wildlife" means all species of the animal kingdom whose  
34 members exist in Washington in a wild state. This includes but is not  
35 limited to mammals, birds, reptiles, amphibians, fish, and  
36 invertebrates. The term "wildlife" does not include feral domestic  
37 mammals, old world rats and mice of the family Muridae of the order

1 Rodentia, or those fish, shellfish, and marine invertebrates classified  
2 as food fish or shellfish by the director. The term "wildlife"  
3 includes all stages of development and the bodily parts of wildlife  
4 members.

5 (17) "Wild animals" means those species of the class Mammalia whose  
6 members exist in Washington in a wild state and the species *Rana*  
7 *catesbeiana* (bullfrog). The term "wild animal" does not include feral  
8 domestic mammals or old world rats and mice of the family Muridae of  
9 the order Rodentia.

10 (18) "Wild birds" means those species of the class Aves whose  
11 members exist in Washington in a wild state.

12 (19) "Protected wildlife" means wildlife designated by the  
13 commission that shall not be hunted or fished.

14 (20) "Endangered species" means wildlife designated by the  
15 commission as seriously threatened with extinction.

16 (21) "Game animals" means wild animals that shall not be hunted  
17 except as authorized by the commission.

18 (22) "Fur-bearing animals" means game animals that shall not be  
19 trapped except as authorized by the commission.

20 (23) "Game birds" means wild birds that shall not be hunted except  
21 as authorized by the commission.

22 (24) "Predatory birds" means wild birds that may be hunted  
23 throughout the year as authorized by the commission.

24 (25) "Deleterious exotic wildlife" means species of the animal  
25 kingdom not native to Washington and designated as dangerous to the  
26 environment or wildlife of the state.

27 (26) "Game farm" means property on which wildlife is held or raised  
28 for commercial purposes, trade, or gift. The term "game farm" does not  
29 include publicly owned facilities.

30 (27) "Person of disability" means a permanently disabled person who  
31 is not ambulatory without the assistance of a wheelchair, crutches, or  
32 similar devices.

33 (28) "Fish" includes all species classified as game fish or food  
34 fish by statute or rule, as well as all fin fish not currently  
35 classified as food fish or game fish if such species exist in state  
36 waters. The term "fish" includes all stages of development and the  
37 bodily parts of fish species.

1 (29) "Raffle" means an activity in which tickets bearing an  
2 individual number are sold for not more than twenty-five dollars each  
3 and in which a permit or permits are awarded to hunt or for access to  
4 hunt big game animals or wild turkeys on the basis of a drawing from  
5 the tickets by the person or persons conducting the raffle.

6 (30) "Youth" means a person fifteen years old for fishing and under  
7 sixteen years old for hunting.

8 (31) "Senior" means a person seventy years old or older.

9 (32) "License year" means the period of time for which a  
10 recreational license is valid. The license year begins April 1st, and  
11 ends March 31st.

12 (33) "Saltwater" means those marine waters seaward of river mouths.

13 (34) "Freshwater" means all waters not defined as saltwater  
14 including, but not limited to, rivers upstream of the river mouth,  
15 lakes, ponds, and reservoirs.

16 (35) "State waters" means all marine waters and fresh waters within  
17 ordinary high water lines and within the territorial boundaries of the  
18 state.

19 (36) "Offshore waters" means marine waters of the Pacific Ocean  
20 outside the territorial boundaries of the state, including the marine  
21 waters of other states and countries.

22 (37) "Concurrent waters of the Columbia river" means those waters  
23 of the Columbia river that coincide with the Washington-Oregon state  
24 boundary.

25 (38) "Resident" means a person who has maintained a permanent place  
26 of abode within the state for at least ninety days immediately  
27 preceding an application for a license, has established by formal  
28 evidence an intent to continue residing within the state, and who is  
29 not licensed to hunt or fish as a resident in another state.

30 (39) "Nonresident" means a person who has not fulfilled the  
31 qualifications of a resident.

32 (40) "Shellfish" means those species of marine and freshwater  
33 invertebrates that have been classified and that shall not be taken  
34 except as authorized by rule of the commission. The term "shellfish"  
35 includes all stages of development and the bodily parts of shellfish  
36 species.

1 (41) "Commercial" means related to or connected with buying,  
2 selling, or bartering.

3 (42) "To process" and its derivatives mean preparing or preserving  
4 fish, wildlife, or shellfish.

5 (43) "Personal use" means for the private use of the individual  
6 taking the fish or shellfish and not for sale or barter.

7 (44) "Angling gear" means a line attached to a rod and reel capable  
8 of being held in hand while landing the fish or a hand-held line  
9 operated without rod or reel.

10 (45) "Fishery" means the taking of one or more particular species  
11 of fish or shellfish with particular gear in a particular geographical  
12 area.

13 (46) "Limited-entry license" means a license subject to a license  
14 limitation program established in chapter 77.70 RCW.

15 (47) "Seaweed" means marine aquatic plant species that are  
16 dependent upon the marine aquatic or tidal environment, and exist in  
17 either an attached or free floating form, and includes but is not  
18 limited to marine aquatic plants in the classes Chlorophyta,  
19 Phaeophyta, and Rhodophyta.

20 (48) "Trafficking" means offering, attempting to engage, or  
21 engaging in sale, barter, or purchase of fish, shellfish, wildlife, or  
22 deleterious exotic wildlife.

23 (49) "Invasive species" means a plant species or a nonnative animal  
24 species that either:

25 (a) Causes or may cause displacement of, or otherwise threatens,  
26 native species in their natural communities;

27 (b) Threatens or may threaten natural resources or their use in the  
28 state;

29 (c) Causes or may cause economic damage to commercial or  
30 recreational activities that are dependent upon state waters; or

31 (d) Threatens or harms human health.

32 (50) "Prohibited aquatic animal species" means an invasive species  
33 of the animal kingdom that has been classified as a prohibited aquatic  
34 animal species by the commission.

35 (51) "Regulated aquatic animal species" means a potentially  
36 invasive species of the animal kingdom that has been classified as a  
37 regulated aquatic animal species by the commission.

1 (52) "Unregulated aquatic animal species" means a nonnative animal  
2 species that has been classified as an unregulated aquatic animal  
3 species by the commission.

4 (53) "Unlisted aquatic animal species" means a nonnative animal  
5 species that has not been classified as a prohibited aquatic animal  
6 species, a regulated aquatic animal species, or an unregulated aquatic  
7 animal species by the commission.

8 (54) "Aquatic plant species" means an emergent, submersed,  
9 partially submersed, free-floating, or floating-leaving plant species  
10 that grows in or near a body of water or wetland.

11 (55) "Retail-eligible species" means commercially harvested salmon,  
12 crab, and sturgeon.

13 **Sec. 2.** RCW 77.65.510 and 2002 c 301 s 2 are each amended to read  
14 as follows:

15 (1) The department must establish and administer a direct retail  
16 endorsement to serve as a single license that permits the holder of a  
17 Washington ~~((salmon or crab commercial fishing))~~ license to  
18 commercially harvest retail-eligible species and to clean, dress, and  
19 sell his or her catch directly to consumers at retail, including over  
20 the internet. The direct retail endorsement must be issued as an  
21 optional addition to all holders of a ~~((salmon or crab))~~ commercial  
22 fishing license for retail-eligible species that the department offers  
23 under this chapter.

24 (2) The direct retail endorsement must be offered at the time of  
25 application for the qualifying commercial fishing license. Individuals  
26 in possession of a qualifying commercial fishing license issued under  
27 this chapter may add a direct retail endorsement to their current  
28 license at ~~((the))~~ any time ~~((they renew their commercial fishing~~  
29 ~~license))~~. Individuals who do not have a commercial fishing license  
30 for ~~((salmon or crab))~~ retail-eligible species issued under this  
31 chapter may not receive a direct retail endorsement. The costs,  
32 conditions, responsibilities, and privileges associated with the  
33 endorsed commercial fishing license is not affected or altered in any  
34 way by the addition of a direct retail endorsement. These costs  
35 include the base cost of the license and any revenue and excise taxes.

1 (3) An individual need only add one direct retail endorsement to  
2 his or her license portfolio. If a direct retail endorsement is  
3 selected by an individual holding more than one commercial fishing  
4 license issued under this chapter, a single direct retail endorsement  
5 is considered to be added to all qualifying commercial fishing licenses  
6 held by that individual, and is the only license required for the  
7 individual to sell at retail (~~(the harvest of salmon or crab)~~) any  
8 retail-eligible species permitted by all of the underlying endorsed  
9 licenses. The direct retail endorsement applies only to the person  
10 named on the endorsed license, and may not be used by an alternate  
11 operator named on the endorsed license.

12 (4) In addition to any fees charged for the endorsed licenses and  
13 harvest documentation as required by this chapter or the rules of the  
14 department, the department may set a reasonable annual fee not to  
15 exceed the administrative costs to the department for a direct retail  
16 endorsement.

17 (5) The holder of a direct retail endorsement is responsible for  
18 documenting the commercial harvest of salmon and crab according to the  
19 provisions of this chapter, the rules of the department for a wholesale  
20 fish dealer, and the reporting requirements of the endorsed license.  
21 Any (~~salmon or crab~~) retail-eligible species caught by the holder of  
22 a direct retail endorsement must be (~~landed in the round and~~)  
23 documented on fish tickets(~~(, as provided for by the department, before~~  
24 ~~further processing)~~)).

25 (6) The direct retail endorsement must be displayed in a readily  
26 visible manner by the seller wherever and whenever a sale to someone  
27 other than a licensed wholesale dealer occurs. The commission may  
28 require that the holder of a direct retail endorsement notify the  
29 department up to eighteen hours before conducting an in-person sale of  
30 retail-eligible species, except for in-person sales that have a  
31 cumulative retail sales value of less than one hundred fifty dollars in  
32 a twenty-four hour period that are sold directly from the vessel. For  
33 sales occurring in a venue other than in person, such as over the  
34 internet, through a catalog, or on the phone, the direct retail  
35 endorsement number of the seller must be provided to the buyer both at  
36 the time of sale and the time of delivery. All internet sales must be  
37 conducted in accordance with federal laws and regulations.

1 (7) The direct retail endorsement is to be held by a natural person  
2 and is not transferrable or assignable. If the endorsed license is  
3 transferred, the direct retail endorsement immediately becomes void,  
4 and the transferor is not eligible for a full or prorated reimbursement  
5 of the annual fee paid for the direct retail endorsement. Upon  
6 becoming void, the holder of a direct retail endorsement must surrender  
7 the physical endorsement to the department.

8 (8) The holder of a direct retail endorsement must abide by the  
9 provisions of Title 69 RCW as they apply to the processing and retail  
10 sale of seafood. The department must distribute a pamphlet, provided  
11 by the department of agriculture, with the direct retail endorsement  
12 generally describing the labeling requirements set forth in chapter  
13 69.04 RCW as they apply to seafood.

14 (9) The holder of a qualifying commercial fishing license issued  
15 under this chapter must either possess a direct retail endorsement or  
16 a wholesale dealer license provided for in RCW 77.65.280 in order to  
17 lawfully sell their catch or harvest in the state to anyone other than  
18 a licensed wholesale dealer.

19 (10) The direct retail endorsement entitles the holder to sell  
20 (~~wild-caught salmon or crab~~) a retail-eligible species only at a  
21 temporary food service establishment as that term is defined in RCW  
22 69.06.045, or directly to a restaurant or other similar food service  
23 business.

24 **Sec. 3.** RCW 77.65.515 and 2002 c 301 s 3 are each amended to read  
25 as follows:

26 (1) Prior to being issued a direct retail endorsement, an  
27 individual must:

28 (a) Obtain and submit to the department a signed letter on  
29 appropriate letterhead from the health department of the county in  
30 which the individual makes his or her official residence or where the  
31 hailing port for any documented vessel owned by the individual is  
32 located as to the fulfillment of all requirements related to county  
33 health rules, including the payment of all required fees. The local  
34 health department generating the letter may charge a reasonable fee for  
35 any necessary inspections. The letter must certify that the methods  
36 used by the individual to transport, store, and display any fresh



1 ((salmon and crabs)) retail-eligible species meets that county's  
2 standards and the statewide standards adopted by the board of health  
3 for food service operations; and

4 (b) Submit proof to the department that the individual making the  
5 direct retail sales is in possession of a valid food and beverage  
6 service worker's permit, as provided for in chapter 69.06 RCW.

7 (2) The requirements of subsection (1) of this section must be  
8 completed each license year before a renewal direct retail endorsement  
9 can be issued.

10 (3) Any individual possessing a direct retail endorsement must  
11 notify the local health department of the county in which retail sales  
12 are to occur, except for the county that conducted the initial  
13 inspection, forty-eight hours before any transaction and make his or  
14 her facilities available for inspection by a fish and wildlife officer,  
15 the local health department of any county in which he or she sells  
16 ((salmon or crab)) any legally harvested retail-eligible species, and  
17 any designee of the department of health or the department of  
18 agriculture.

19 (4) Neither the department or a local health department may be held  
20 liable in any judicial proceeding alleging that consumption of or  
21 exposure to seafood sold by the holder of a direct retail endorsement  
22 resulted in a negative health consequence, as long as the department  
23 can show that the individual holding the direct retail endorsement  
24 complied with the requirements of subsection (1) of this section prior  
25 to being issued his or her direct retail license, and neither the  
26 department nor a local health department acted in a reckless manner.  
27 For the purposes of this subsection, the department or a local health  
28 district shall not be deemed to be acting recklessly for not conducting  
29 a permissive inspection.

30 **Sec. 4.** RCW 77.65.520 and 2002 c 301 s 4 are each amended to read  
31 as follows:

32 (1) The direct retail endorsement is conditioned upon compliance:

33 (a) With the requirements of this chapter as they apply to  
34 wholesale fish dealers and to the rules of the department relating to  
35 the payment of fines for violations of rules for the accounting of the  
36 commercial harvest of ((salmon or crabs)) retail eligible species; and

1 (b) With the state board of health and local rules for food service  
2 establishments.

3 (2) Violations of the requirements and rules referenced in  
4 subsection (1) of this section may result in the suspension of the  
5 direct retail endorsement. The suspended individual must not be  
6 reimbursed for any portion of the suspended endorsement. Suspension of  
7 the direct retail endorsement may not occur unless and until:

8 (a) The director has notified by order the holder of the direct  
9 retail endorsement when a violation of subsection (1) of this section  
10 has occurred. The notification must specify the type of violation, the  
11 liability to be imposed for damages caused by the violation, a notice  
12 that the amount of liability is due and payable by the holder of the  
13 direct retail endorsement, and an explanation of the options available  
14 to satisfy the liability; and

15 (b) The holder of the direct retail endorsement has had at least  
16 ninety days after the notification provided in (a) of this subsection  
17 was received to either make full payment for all liabilities owed or  
18 enter into an agreement with the department to pay off all liabilities  
19 within a reasonable time.

20 (3)(a) If, within ninety days after receipt of the order provided  
21 in subsection (2)(a) of this section, the amount specified in the order  
22 is not paid or the holder of the direct retail endorsement has not  
23 entered into an agreement with the department to pay off all  
24 liabilities, the prosecuting attorney for any county in which the  
25 persons to whom the order is directed do business, or the attorney  
26 general upon request of the department, may bring an action on behalf  
27 of the state in the superior court for Thurston county, or any county  
28 in which the persons to whom the order is directed do business, to seek  
29 suspension of the individual's direct retail endorsement for up to five  
30 years.

31 (b) The department may temporarily suspend the privileges provided  
32 by the direct retail endorsement for up to one hundred twenty days  
33 following the receipt of the order provided in subsection (2)(a) of  
34 this section, unless the holder of the direct retail endorsement has  
35 deposited with the department an acceptable performance bond on forms  
36 prescribed and provided by the department. This performance bond must  
37 be a corporate surety bond executed in favor of the department by a

1 corporation authorized to do business in the state of Washington under  
2 chapter 48.28 RCW and approved by the department. The bond must be  
3 filed and maintained in an amount equal to one thousand dollars.

4 (4) For violations of state board of health and local rules under  
5 subsection (1)(b) of this section only, any person inspecting the  
6 facilities of a direct retail endorsement holder under RCW 77.65.515  
7 may suspend the privileges granted by the endorsement for up to seven  
8 days. Within twenty-four hours of the discovery of the violation, the  
9 inspecting entity must notify the department of the violation. Upon  
10 notification, the department may proceed with the procedures outlined  
11 in this section for suspension of the endorsement. If the violation of  
12 a state board of health rule is discovered by a local health  
13 department, that local jurisdiction may fine the holder of the direct  
14 retail endorsement according to the local jurisdiction's rules as they  
15 apply to retail food operations.

16 (5) Subsections (2) and (3) of this section do not apply to a  
17 holder of a direct retail endorsement that executes a surety bond and  
18 abides by the conditions established in RCW 77.65.320 and 77.65.330 as  
19 they apply to wholesale dealers.

20 **Sec. 5.** RCW 36.71.090 and 2002 c 301 s 9 are each amended to read  
21 as follows:

22 (1) It shall be lawful for any farmer, gardener, or other person,  
23 without license, to sell, deliver, or peddle any fruits, vegetables,  
24 berries, eggs, or any farm produce or edibles raised, gathered,  
25 produced, or manufactured by such person and no city or town shall pass  
26 or enforce any ordinance prohibiting the sale by or requiring license  
27 from the producers and manufacturers of farm produce and edibles as  
28 ((herein)) defined(~~(:—PROVIDED, That)~~) in this section. However,  
29 nothing ((herein)) in this section authorizes any person to sell,  
30 deliver, or peddle, without license, in any city or town, any dairy  
31 product, meat, poultry, eel, fish, mollusk, or shellfish where a  
32 license is required to engage legally in such activity in such city or  
33 town.

34 (2) It is lawful for an individual in possession of a valid direct  
35 retail endorsement, as established in RCW 77.65.510, to sell, deliver,  
36 or peddle (~~(wild-caught salmon or crab)~~) any legally harvested retail-

1 eligible species, as that term is defined in RCW 77.08.010, that is  
2 caught, harvested, or collected under rule of the department of fish  
3 and wildlife by such a person at a temporary food service  
4 establishment, as that term is defined in RCW 69.06.045, and no city,  
5 town, or county may pass or enforce an ordinance prohibiting the sale  
6 by or requiring additional licenses or permits from the holder of the  
7 valid direct retail endorsement. However, this subsection does not  
8 prohibit a city, town, or county from inspecting an individual  
9 displaying a direct retail endorsement to verify that the person is in  
10 compliance with state board of health and local rules for food service  
11 operations.

12 **Sec. 6.** RCW 82.27.020 and 2001 c 320 s 9 are each amended to read  
13 as follows:

14 (1) In addition to all other taxes, licenses, or fees provided by  
15 law there is established an excise tax on the commercial possession of  
16 enhanced food fish as provided in this chapter. The tax is levied upon  
17 and shall be collected from the owner of the enhanced food fish whose  
18 possession constitutes the taxable event. The taxable event is the  
19 first possession in Washington by an owner after the enhanced food fish  
20 has been landed. Processing and handling of enhanced food fish by a  
21 person who is not the owner is not a taxable event to the processor or  
22 handler.

23 (2) A person in possession of enhanced food fish and liable to this  
24 tax may deduct from the price paid to the person from which the  
25 enhanced food fish (except oysters) are purchased an amount equal to a  
26 tax at one-half the rate levied in this section upon these products.

27 (3) The measure of the tax (~~(is the value of the)~~) for all enhanced  
28 food fish, including retail-eligible fish sold with a direct retail  
29 endorsement pursuant to RCW 77.65.510, is the comparable sales price  
30 for similar species of fish at the point of landing.

31 (4) The tax shall be equal to the measure of the tax multiplied by  
32 the rates for enhanced food fish as follows:

33 (a) Chinook, coho, and chum salmon and anadromous game fish: Five  
34 and twenty-five one-hundredths percent;

35 (b) Pink and sockeye salmon: Three and fifteen one-hundredths  
36 percent;

1 (c) Other food fish and shellfish, except oysters, sea urchins, and  
2 sea cucumbers: Two and one-tenth percent;  
3 (d) Oysters: Eight one-hundredths of one percent;  
4 (e) Sea urchins: Four and six-tenths percent through December 31,  
5 2005, and two and one-tenth percent thereafter; and  
6 (f) Sea cucumbers: Four and six-tenths percent through December  
7 31, 2005, and two and one-tenth percent thereafter.  
8 (5) An additional tax is imposed equal to the rate specified in RCW  
9 82.02.030 multiplied by the tax payable under subsection (4) of this  
10 section."

**SHB 1127** - S COMM AMD

By Committee on Parks, Fish & Wildlife

**ADOPTED 04/11/2003**

11 On page 1, line 1 of the title, after "fish;" strike the remainder  
12 of the title and insert "and amending RCW 77.08.010, 77.65.510,  
13 77.65.515, 77.65.520, 36.71.090, and 82.27.020."

**--- END ---**