

# HOUSE BILL REPORT

## HB 2349

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**As Reported by House Committee On:**  
Fisheries, Ecology & Parks

**Title:** An act relating to small scale natural resource extraction.

**Brief Description:** Allowing small scale resource extraction without written approval.

**Sponsors:** Representatives Ericksen and Hinkle.

**Brief History:**

**Committee Activity:**

Fisheries, Ecology & Parks: 2/5/04, 2/6/04 [DPS].

**Brief Summary of Substitute Bill**

- Requires the Department of Natural Resources to allow small scale prospectors to access non-tidal state-owned shorelines and lake beds without charging a fee or rent, and without first requiring the prospector to obtain a permit, lease, or other form of permission.
- Limits enforcement of the hydraulics code to only civil infractions for small scale prospectors and miners.

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### HOUSE COMMITTEE ON FISHERIES, ECOLOGY & PARKS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Sump, Ranking Minority Member; Hinkle, Assistant Ranking Minority Member; Buck, Hatfield, O'Brien, Pearson and D. Simpson.

**Minority Report:** Do not pass. Signed by 2 members: Representatives Cooper, Chair; and Upthegrove, Vice Chair.

**Staff:** Jason Callahan (786-7117).

**Background:**

The Department of Natural Resources (DNR) manages prospecting and mining on state lands. This authority includes both commercial and recreational mineral extraction.

Generally, mineral extraction on state lands requires the issuance of a permit or a lease from the DNR. In addition, recreational prospectors operating in state waters are required to obtain a hydraulics project approval from the Department of Fish and Wildlife (DFW). Small scale recreational prospectors may satisfy this requirement by complying with the prospecting methods outlined by the DFW publication known as the Gold and Fish Pamphlet.

Recreational prospecting in violation of the standards established in the Gold and Fish Pamphlet may be subject to civil and criminal enforcement. The unlawful undertaking of a hydraulics activity is a gross misdemeanor. Civil penalties can be up to \$100 per day.

Small scale prospecting is defined as discovering and recovering minerals using pans, non-motorized sluice boxes, concentrators, and mini-rocker boxes.

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**Summary of Substitute Bill:**

The DNR is required to allow recreational mineral prospecting and mining on non-tidal state-owned shorelines and lake beds without charging a fee or rent, and without first requiring the prospector to obtain a permit, lease, or other form of permission. The permission to access aquatic lands is limited to areas where the state owns the surface rights and the state or the miner owns the mineral rights. In addition, the definition of small scale miners and prospectors is expanded to include some battery-operated devices.

Small scale miners and prospectors that are found in violation of a hydraulics project approval may only be sanctioned with a class 1 civil infraction, and not a gross misdemeanor.

**Substitute Bill Compared to Original Bill:**

The original bill exempted all small scale prospecting from the requirements of the hydraulics code, and did not specify the civil violations that an unlawfully acting prospector could be sanctioned with.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of session in which bill is passed.

**Testimony For:** The state's recreational miners are over-regulated. As a result, participation and revenue from the sales of mining equipment has plummeted. The

conditions of the Gold and Fish Pamphlet are too extreme, and do not reflect the realities of gold panning. For instance, the buffers are based on timber harvest rules, and not prospecting. Most panning is less intrusive than some fishing, yet the rules are based on commercial resource extraction. The regulations in the hydraulic code is designed for bridge building and deck construction, not recreational gold panning. In addition, the criminal sanctions for violations are also too extreme.

Miners are strong environmentalists that clean the rivers of debris such as rusty nails and shotgun shells. Prospecting does not even occur below the water line, where the fish eggs and juveniles are located. Siltation caused by miners is extremely minor compared to siltation caused by rain.

Outdoor activities such as mining are essential to the state's economy. Participants add retail sales and sales taxes into rural economies.

**Testimony Against:** The Gold and Fish Pamphlet is an important tool for setting the times and seasons for gold panning so as to not disturb salmon reproduction. Some prospecting equipment does not cause harm when used properly, but could if not used in the right way. The original bill has too many exceptions to maintain the integrity of the Gold and Fish Pamphlet. Even the prospector with the best intentions can still damage a stream.

The current regulations are not overly onerous, and are less than what many states require. The Gold and Fish Pamphlet is understandable and easy to follow. The regulations are important because not everyone is familiar with the proper techniques.

**Persons Testifying:** (In support) Bruce Beatty, Bedrock Prospectors; Robert Carstensen, FMDAC; Greg Christensen and Mark Erickson, Resources Coalition; Robert Cunningham, Northwest Treasure Supply; Harley Edwards, Bedrock Prospectors; Joe Williams; Graham Willmore; and Ronald Watson.

(Opposed) Peter Birch, Washington Department of Fish and Wildlife; Loren Stern, Department of Natural Resources; Lea Mitchell, Public Employees for Environmental Responsibility; and Dave Peeler, Department of Ecology.

**Persons Signed In To Testify But Not Testifying:** None.