

# HOUSE BILL REPORT

## HB 3038

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

**Title:** An act relating to the definition of the term "conviction" in chapter 77.15 RCW.

**Brief Description:** Modifying the definition of "conviction" for the purpose of chapter 77.15 RCW.

**Sponsors:** Representatives Nixon and Upthegrove.

**Brief History:**

**Committee Activity:**

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

**Brief Summary of Bill**

- Expands the definition of the term "conviction" in the Fish and Wildlife Enforcement Code to include uncontested notices of infraction, judgements that an infraction has been committed, failures to respond to a notice of infraction, or failures to appear after requesting a hearing to challenge an infraction.

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### HOUSE COMMITTEE ON FISHERIES, ECOLOGY & PARKS

**Majority Report:** Do pass. Signed by 7 members: Representatives Cooper, Chair; Upthegrove, Vice Chair; Sump, Ranking Minority Member; Buck, O'Brien, Pearson and D. Simpson.

**Minority Report:** Do not pass. Signed by 2 members: Representatives Hinkle, Assistant Ranking Minority Member; and Hatfield.

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

**Background:**

The Fish and Wildlife Enforcement Code (code) contains a number of unlawful acts that relate to hunting, fishing, and other wildlife related activities. Throughout the code, the term "conviction" is used to assign sanctions to a person found in violation of a fish or wildlife law. For instance, any fish or wildlife unlawfully harvested must be surrendered

to the state, but only upon *conviction* of a code violation. Similarly, the Department of Fish and Wildlife (DFW) may revoke the license, tag, or stamp of any person who is *convicted* of a violation of the code, and must revoke all of the commercial fishing privileges of a person *convicted* of unlawfully using a non-designated vessel for fishing.

Past convictions also serve as an element of certain crimes in the code. A person can only be found guilty of the unlawful taking of endangered fish and wildlife in the first degree if that person was *convicted* of the same crime in the second degree within the past five years. Likewise, a *conviction* of a crime related to the taking of big game is a necessary element that must be proved before a person can be found guilty of the unlawful taking of big game in the first degree.

The term "conviction" is defined in the code to mean:

- A final conviction in court;
- An unvacated forfeiture of bail or other collateral; or
- A guilty plea.

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**Summary of Bill:**

The definition of the term "conviction" in the code is expanded to include uncontested notices of infraction, judgements that an infraction has been committed, failures to respond to a notice of infraction, or failures to appear after requesting a hearing to challenge an infraction.

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**Appropriation:** None.

**Fiscal Note:** Not requested.

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

**Testimony For:** The DFW has committed to finding ways to decriminalize certain code violations. This process is well underway; however, there is a concern that if a violation is decriminalized, that it will not count towards a license suspension. This bill would remedy that problem. Many hunter and fisher groups would like to see stronger penalties, but this would at least create equity in the decriminalizing process.

**Testimony Against:** None.

**Persons Testifying:** (In support) Evan Jacoby and Druce Bjork, Department of Fish and Wildlife.

(Neutral) Ed Owens, Coalition of Coastal Fisheries.

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