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HOUSE BILL 1476

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State of Washington

58th Legislature

2003 Regular Session

By Representatives Pearson, Grant, Sump, Kristiansen, Boldt, Mielke, Armstrong, Condotta, Buck and Campbell

Read first time 01/28/2003. Referred to Committee on Fisheries, Ecology & Parks.

1 AN ACT Relating to improving the safety of recreational users of  
2 the state's rivers and streams; amending RCW 77.55.100; adding a new  
3 section to chapter 79.90 RCW; and creating a new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature finds that recreational uses  
6 of the state's rivers and streams is an important and growing activity  
7 in the state. It provides an enjoyable experience that can be shared  
8 by people of all ages. The legislature also finds that there are  
9 dangers inherent to recreational users of the state's rivers and  
10 streams, and that some dangers can be controlled or reduced. The  
11 dangerous accumulation of wood debris is one threat that should be  
12 managed more aggressively in order to reduce the threats to human life.

13 **Sec. 2.** RCW 77.55.100 and 2002 c 368 s 2 are each amended to read  
14 as follows:

15 (1) In the event that any person or government agency desires to  
16 construct any form of hydraulic project or perform other work that will  
17 use, divert, obstruct, or change the natural flow or bed of any of the  
18 salt or fresh waters of the state, such person or government agency

1 shall, before commencing construction or work thereon and to ensure the  
2 proper protection of fish life, secure the approval of the department  
3 as to the adequacy of the means proposed for the protection of fish  
4 life. This approval shall not be unreasonably withheld or unreasonably  
5 conditioned.

6 (2)(a) The department shall grant or deny approval of a standard  
7 permit within forty-five calendar days of the receipt of a complete  
8 application and notice of compliance with any applicable requirements  
9 of the state environmental policy act, made in the manner prescribed in  
10 this section. The permit must contain provisions allowing for minor  
11 modifications to the plans and specifications without requiring  
12 reissuance of the permit.

13 (b) The applicant may document receipt of application by filing in  
14 person or by registered mail. A complete application for approval  
15 shall contain general plans for the overall project, complete plans and  
16 specifications of the proposed construction or work within the mean  
17 higher high water line in salt water or within the ordinary high water  
18 line in fresh water, and complete plans and specifications for the  
19 proper protection of fish life.

20 (c) The forty-five day requirement shall be suspended if:

21 (i) After ten working days of receipt of the application, the  
22 applicant remains unavailable or unable to arrange for a timely field  
23 evaluation of the proposed project;

24 (ii) The site is physically inaccessible for inspection; or

25 (iii) The applicant requests delay. Immediately upon determination  
26 that the forty-five day period is suspended, the department shall  
27 notify the applicant in writing of the reasons for the delay.

28 (d) For purposes of this section, "standard permit" means a written  
29 permit issued by the department when the conditions under subsections  
30 (3) and (5)(b) of this section are not met.

31 (3)(a) The department may issue an expedited written permit in  
32 those instances where normal permit processing would result in  
33 significant hardship for the applicant or unacceptable damage to the  
34 environment. In cases of imminent danger, the department shall issue  
35 an expedited written permit, upon request, for work to repair existing  
36 structures, move obstructions, restore banks, protect property, or  
37 protect fish resources. Expedited permit requests require a complete  
38 written application as provided in subsection (2)(b) of this section

1 and shall be issued within fifteen calendar days of the receipt of a  
2 complete written application. Approval of an expedited permit is valid  
3 for up to sixty days from the date of issuance.

4 (b) For the purposes of this subsection, "imminent danger" means a  
5 threat by weather, water flow, or other natural conditions that is  
6 likely to occur within sixty days of a request for a permit  
7 application.

8 (c) The department may not require the provisions of the state  
9 environmental policy act, chapter 43.21C RCW, to be met as a condition  
10 of issuing a permit under this subsection.

11 (d) The department or the county legislative authority may  
12 determine if an imminent danger exists. The county legislative  
13 authority shall notify the department, in writing, if it determines  
14 that an imminent danger exists.

15 (4) Approval of a standard permit is valid for a period of up to  
16 five years from date of issuance. The permittee must demonstrate  
17 substantial progress on construction of that portion of the project  
18 relating to the approval within two years of the date of issuance. If  
19 the department denies approval, the department shall provide the  
20 applicant, in writing, a statement of the specific reasons why and how  
21 the proposed project would adversely affect fish life. Protection of  
22 fish life shall be the only ground upon which approval may be denied or  
23 conditioned. Chapter 34.05 RCW applies to any denial of project  
24 approval, conditional approval, or requirements for project  
25 modification upon which approval may be contingent.

26 (5)(a) In case of an emergency arising from weather or stream flow  
27 conditions, the deposition of wood debris that poses a threat to  
28 recreational users of a waterbody, or other natural conditions, the  
29 department, through its authorized representatives, shall issue  
30 immediately, upon request, oral approval for removing any obstructions,  
31 repairing existing structures, restoring stream banks, or to protect  
32 property threatened by the stream or a change in the stream flow  
33 without the necessity of obtaining a written approval prior to  
34 commencing work. Conditions of an oral approval to protect fish life  
35 shall be established by the department and reduced to writing within  
36 thirty days and complied with as provided for in this section. Oral  
37 approval shall be granted immediately, upon request, for a stream  
38 crossing during an emergency situation.

1 (b) For purposes of this section and RCW 77.55.110, "emergency"  
2 means an immediate threat to life, the public, property, or of  
3 environmental degradation.

4 (c) The department or the county legislative authority may declare  
5 and continue an emergency when one or more of the criteria under (b) of  
6 this subsection are met. The county legislative authority shall  
7 immediately notify the department if it declares an emergency under  
8 this subsection.

9 (6) The department shall, at the request of a county, develop five-  
10 year maintenance approval agreements, consistent with comprehensive  
11 flood control management plans adopted under the authority of RCW  
12 86.12.200, or other watershed plan approved by a county legislative  
13 authority, to allow for work on public and private property for bank  
14 stabilization, bridge repair, removal of sand bars and debris, channel  
15 maintenance, and other flood damage repair and reduction activity under  
16 agreed-upon conditions and times without obtaining permits for specific  
17 projects.

18 (7) This section shall not apply to the construction of any form of  
19 hydraulic project or other work which diverts water for agricultural  
20 irrigation or stock watering purposes authorized under or recognized as  
21 being valid by the state's water codes, or when such hydraulic project  
22 or other work is associated with streambank stabilization to protect  
23 farm and agricultural land as defined in RCW 84.34.020. These  
24 irrigation or stock watering diversion and streambank stabilization  
25 projects shall be governed by RCW 77.55.110.

26 A landscape management plan approved by the department and the  
27 department of natural resources under RCW 76.09.350(2), shall serve as  
28 a hydraulic project approval for the life of the plan if fish are  
29 selected as one of the public resources for coverage under such a plan.

30 (8) For the purposes of this section and RCW 77.55.110, "bed" means  
31 the land below the ordinary high water lines of state waters. This  
32 definition does not include irrigation ditches, canals, storm water  
33 run-off devices, or other artificial watercourses except where they  
34 exist in a natural watercourse that has been altered by man.

35 (9) The phrase "to construct any form of hydraulic project or  
36 perform other work" does not include the act of driving across an  
37 established ford. Driving across streams or on wetted stream beds at

1 areas other than established fords requires approval. Work within the  
2 ordinary high water line of state waters to construct or repair a ford  
3 or crossing requires approval.

4 NEW SECTION. **Sec. 3.** A new section is added to chapter 79.90 RCW  
5 to read as follows:

6 The department shall authorize property owners to remove stream  
7 depositions of logs, uprooted tree snags, and stumps that abut on  
8 shorelands if the removal will:

- 9 (1) Reduce an intrusion on the navigational channel;  
10 (2) Correct an adverse redirection of a river course; or  
11 (3) Remove a serious threat to recreational users of a waterbody.

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