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**SUBSTITUTE HOUSE BILL 2349**

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**State of Washington**

**58th Legislature**

**2004 Regular Session**

**By** House Committee on Fisheries, Ecology & Parks (originally sponsored by Representatives Ericksen and Hinkle)

READ FIRST TIME 02/06/04.

1 AN ACT Relating to small scale natural resource extraction;  
2 amending RCW 79.14.315, 77.15.300, and 77.55.270; adding a new section  
3 to chapter 79.90 RCW; and prescribing penalties.

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

5 **Sec. 1.** RCW 79.14.315 and 1987 c 20 s 15 are each amended to read  
6 as follows:

7 (1) Any person may engage in small scale prospecting and mining, as  
8 that term is defined in RCW 77.55.270, on shorelands and the beds of  
9 navigable lakes and rivers not subject to tidal flows where both the  
10 surface and mineral rights are possessed by the state or where the  
11 surface rights are possessed by the state and the mineral rights are  
12 possessed by the person engaging in the small scale prospecting and  
13 mining activity without first obtaining a permit, lease, license, or  
14 other form of permission from the department, and without being charged  
15 a rent or fee.

16 (2) The department may issue permits for recreational mineral  
17 prospecting that does not meet the definition of "small scale  
18 prospecting and mining," as that term is defined in RCW 77.55.270 in  
19 designated areas containing noneconomic mineral deposits. The term of

1 a permit shall not exceed one year. Designated areas, equipment  
2 allowed, methods of prospecting, as well as other appropriate permit  
3 conditions, shall be set in rules adopted by the department. Fees  
4 shall be set by the board of natural resources.

5 NEW SECTION. **Sec. 2.** A new section is added to chapter 79.90 RCW  
6 to read as follows:

7 The department must allow small scale prospecting and mining, as  
8 that term is defined in RCW 77.55.270, on shorelands and the beds of  
9 navigable lakes and rivers not subject to tidal flows where both the  
10 surface and mineral rights are possessed by the state or where the  
11 surface rights are possessed by the state and the mineral rights are  
12 possessed by the person engaging in the small scale prospecting and  
13 mining activity without first obtaining a permit, lease, license, or  
14 other form of permission from the department, and without being charged  
15 a rent or fee.

16 **Sec. 3.** RCW 77.15.300 and 2000 c 107 s 239 are each amended to  
17 read as follows:

18 (1) A person, except for a person engaging in small scale  
19 prospecting and mining, as that term is defined in RCW 77.55.270, is  
20 guilty of unlawfully undertaking hydraulic project activities if the  
21 person constructs any form of hydraulic project or performs other work  
22 on a hydraulic project and:

23 (a) Fails to have a hydraulic project approval required under  
24 chapter 77.55 RCW for such construction or work; or

25 (b) Violates any requirements or conditions of the hydraulic  
26 project approval for such construction or work.

27 (2) Unlawfully undertaking hydraulic project activities is a gross  
28 misdemeanor.

29 (3) A person engaging in small scale prospecting and mining, as  
30 that term is defined in RCW 77.55.270, may be charged with a class 1  
31 civil infraction under chapter 7.80 RCW if that person satisfies either  
32 criteria listed in subsection (1)(a) or (b) of this section.

33 **Sec. 4.** RCW 77.55.270 and 1997 c 415 s 2 are each amended to read  
34 as follows:

1 (1) Small scale prospecting and mining shall not require written  
2 approval under this chapter if the prospecting is conducted in  
3 accordance with provisions established by the department.

4 (2) By December 31, 1998, the department shall adopt rules  
5 applicable to small scale prospecting and mining activities subject to  
6 this section. The department shall develop the rules in cooperation  
7 with the recreational mining community and other interested parties.

8 (3) Within two months of adoption of the rules, the department  
9 shall distribute an updated gold and fish pamphlet that describes  
10 methods of mineral prospecting that are consistent with the  
11 department's rule. The pamphlet shall be written to clearly indicate  
12 the prospecting methods that require written approval under this  
13 chapter and the prospecting methods that require compliance with the  
14 pamphlet. To the extent possible, the department shall use the  
15 provisions of the gold and fish pamphlet to minimize the number of  
16 specific provisions of a written approval issued under this chapter.

17 (4) For the purposes of this chapter, "small scale prospecting and  
18 mining" means only the use of the following methods: Pans, which can  
19 include battery-operated rotating open metal or plastic dishes without  
20 pumped or gravity-fed water supplies, nonmotorized sluice boxes,  
21 concentrators, and minirocker boxes for the discovery and recovery of  
22 minerals. The term "small scale prospecting and mining" does not  
23 include any motorized or battery-operated methods of prospecting and  
24 mining, except as provided for by this subsection.

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