
HOUSE BILL 2349

State of Washington

58th Legislature

2004 Regular Session

By Representatives Ericksen and Hinkle

Prefiled 1/9/2004. Read first time 01/12/2004. Referred to
Committee on Fisheries, Ecology & Parks.

1 AN ACT Relating to small scale natural resource extraction;
2 amending RCW 77.55.270, 79.14.315, and 77.08.010; and adding a new
3 section to chapter 79.90 RCW.

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

5 **Sec. 1.** RCW 77.55.270 and 1997 c 415 s 2 are each amended to read
6 as follows:

7 (1)(a) Small scale prospecting and mining, as that term is defined
8 in RCW 77.08.010, shall not require written approval under this
9 chapter.

10 (b) Recreational mineral prospecting and mining activities that do
11 not meet the definition of "small scale prospecting and mining" in RCW
12 77.08.010 shall not require written approval under this chapter if the
13 prospecting is conducted in accordance with provisions established by
14 the department.

15 (2) By December 31, ((1998)) 2004, the department shall adopt rules
16 applicable to ((small-scale)) prospecting and mining activities subject
17 to this section. The department shall develop the rules in cooperation
18 with the recreational mining community and other interested parties.

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

10 ~~((4) For the purposes of this chapter, "small scale prospecting
11 and mining" means only the use of the following methods: Pans,
12 nonmotorized sluice boxes, concentrators, and minirocker boxes for the
13 discovery and recovery of minerals.))~~

14 **Sec. 2.** RCW 79.14.315 and 1987 c 20 s 15 are each amended to read
15 as follows:

16 (1) Any person may engage in small scale prospecting and mining, as
17 that term is defined in RCW 77.08.010, on aquatic lands where both the
18 surface and mineral rights are possessed by the state without first
19 obtaining a permit, lease, license, or other form of permission from
20 the department, and without being charged a rent or fee.

21 (2) The department may issue permits for recreational mineral
22 prospecting that does not meet the definition of "small scale
23 prospecting and mining" in RCW 77.08.010 in designated areas containing
24 noneconomic mineral deposits. The term of a permit shall not exceed
25 one year. Designated areas, equipment allowed, methods of prospecting,
26 as well as other appropriate permit conditions, shall be set in rules
27 adopted by the department. Fees shall be set by the board of natural
28 resources.

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

31 The department must allow small scale prospecting and mining, as
32 that term is defined in RCW 77.08.010, on aquatic lands where both the
33 surface and mineral rights are possessed by the state without first
34 obtaining a permit, lease, license, or other form of permission from
35 the department, and without being charged a rent or fee.

1 **Sec. 4.** RCW 77.08.010 and 2003 c 387 s 1 are each amended to read
2 as follows:

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

5 (1) "Director" means the director of fish and wildlife.

6 (2) "Department" means the department of fish and wildlife.

7 (3) "Commission" means the state fish and wildlife commission.

8 (4) "Person" means and includes an individual; a corporation; a
9 public or private entity or organization; a local, state, or federal
10 agency; all business organizations, including corporations and
11 partnerships; or a group of two or more individuals acting with a
12 common purpose whether acting in an individual, representative, or
13 official capacity.

14 (5) "Fish and wildlife officer" means a person appointed and
15 commissioned by the director, with authority to enforce this title and
16 rules adopted pursuant to this title, and other statutes as prescribed
17 by the legislature. Fish and wildlife officer includes a person
18 commissioned before June 11, 1998, as a wildlife agent or a fisheries
19 patrol officer.

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

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

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

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

35 (10) "Open season" means those times, manners of taking, and places
36 or waters established by rule of the commission for the lawful hunting,
37 fishing, taking, or possession of game animals, game birds, game fish,
38 food fish, or shellfish that conform to the special restrictions or

1 physical descriptions established by rule of the commission or that
2 have otherwise been deemed legal to hunt, fish, take, harvest, or
3 possess by rule of the commission. "Open season" includes the first
4 and last days of the established time.

5 (11) "Closed season" means all times, manners of taking, and places
6 or waters other than those established by rule of the commission as an
7 open season. "Closed season" also means all hunting, fishing, taking,
8 or possession of game animals, game birds, game fish, food fish, or
9 shellfish that do not conform to the special restrictions or physical
10 descriptions established by rule of the commission as an open season or
11 that have not otherwise been deemed legal to hunt, fish, take, harvest,
12 or possess by rule of the commission as an open season.

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

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

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

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

23 (16) "Wildlife" means all species of the animal kingdom whose
24 members exist in Washington in a wild state. This includes but is not
25 limited to mammals, birds, reptiles, amphibians, fish, and
26 invertebrates. The term "wildlife" does not include feral domestic
27 mammals, old world rats and mice of the family Muridae of the order
28 Rodentia, or those fish, shellfish, and marine invertebrates classified
29 as food fish or shellfish by the director. The term "wildlife"
30 includes all stages of development and the bodily parts of wildlife
31 members.

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

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

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

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

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

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

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

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

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

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

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

22 (28) "Fish" includes all species classified as game fish or food
23 fish by statute or rule, as well as all fin fish not currently
24 classified as food fish or game fish if such species exist in state
25 waters. The term "fish" includes all stages of development and the
26 bodily parts of fish species.

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

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

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

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

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

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

4 (35) "State waters" means all marine waters and fresh waters within
5 ordinary high water lines and within the territorial boundaries of the
6 state.

7 (36) "Offshore waters" means marine waters of the Pacific Ocean
8 outside the territorial boundaries of the state, including the marine
9 waters of other states and countries.

10 (37) "Concurrent waters of the Columbia river" means those waters
11 of the Columbia river that coincide with the Washington-Oregon state
12 boundary.

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

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

20 (40) "Shellfish" means those species of marine and freshwater
21 invertebrates that have been classified and that shall not be taken
22 except as authorized by rule of the commission. The term "shellfish"
23 includes all stages of development and the bodily parts of shellfish
24 species.

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

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

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

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

34 (45) "Fishery" means the taking of one or more particular species
35 of fish or shellfish with particular gear in a particular geographical
36 area.

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

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

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

9 (49) "Invasive species" means a plant species or a nonnative animal
10 species that either:

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

13 (b) Threatens or may threaten natural resources or their use in the
14 state;

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

17 (d) Threatens or harms human health.

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

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

24 (52) "Unregulated aquatic animal species" means a nonnative animal
25 species that has been classified as an unregulated aquatic animal
26 species by the commission.

27 (53) "Unlisted aquatic animal species" means a nonnative animal
28 species that has not been classified as a prohibited aquatic animal
29 species, a regulated aquatic animal species, or an unregulated aquatic
30 animal species by the commission.

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

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

36 (56)(a) "Small scale prospecting and mining" means the discovery
37 and recovery of precious minerals in an aquatic environment using hand-
38 operated, nonmotorized mining or prospecting equipment, which includes

1 gold pans, sluice boxes, concentrators, or rocker boxes with a riffle
2 area that does not exceed ten square feet and does not exceed fifty
3 percent of the wetted perimeter of the waterway, or any portable device
4 operated by one person used for the recovery of precious minerals.

5 (b) For the purpose of this section, "hand-operated, nonmotorized
6 mining or prospecting equipment" means equipment that does not use an
7 internal combustion engine. Battery-operated equipment, including
8 spiral wheels and minislucices powered by a battery bilge pump, are
9 considered nonmotorized and hand-operated mining or prospecting
10 equipment.

--- END ---