
**Natural Resources, Ecology &
Parks Committee**

HB 1128

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

Sponsors: Representative Nixon.

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, or failures to appear after requesting a hearing to challenge an infraction.

Hearing Date: 1/27/05

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 (RCW chapter 77.15). 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 (RCW 77.15.100). Similarly, the Department of Fish and Wildlife may revoke the license, tag, or stamp of any person who is *convicted* of a violation of the code (RCW 77.15.690), and must revoke for one year all of the commercial fishing privileges of a person *convicted* of unlawfully using a non-designated vessel for fishing (RCW 77.15.530).

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 (RCW 77.15.120). 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 charged with the unlawful taking of big game in the first degree (RCW 77.15.410).

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

- A final conviction in court;
- An unvacated forfeiture of bail or other collateral; and

- A guilty plea (RCW 77.15.050).

Some violations of the code are punished not as criminal acts, but as civil infractions. For instance, a person found guilty of fishing in violation of a rule adopted by the Fish and Wildlife Commission would be punished for a natural resources infraction, but not for a misdemeanor or felony (RCW 77.15.160). Violations of these civil infractions do not satisfy the statutory definition of "conviction," and therefore are not considered convictions for the purposes of the code.

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, or failures to appear after requesting a hearing to challenge an infraction. In addition, the Fish and Wildlife Commission may adopt rules that designate infractions that are not included in the definition of "conviction".

Appropriation: None.

Fiscal Note: Not requested.

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