

# SENATE BILL REPORT

## SB 5893

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As Reported By Senate Committee On:  
Natural Resources, Ocean & Recreation, February 28, 2005

**Title:** An act relating to secondary commercial fish receivers.

**Brief Description:** Creating the crime of a secondary commercial fish receiver's failure to account for commercial harvest.

**Sponsors:** Senator Jacobsen.

**Brief History:**

**Committee Activity:** Natural Resources, Ocean & Recreation: 2/21/05, 2/28/05 [DPS, w/oRec].

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### SENATE COMMITTEE ON NATURAL RESOURCES, OCEAN & RECREATION

**Majority Report:** That Substitute Senate Bill No. 5893 be substituted therefor, and the substitute bill do pass.

Signed by Senators Jacobsen, Chair; Doumit, Vice Chair; Oke, Ranking Minority Member; Fraser, Hargrove, Morton, Spanel and Swecker.

**Minority Report:** That it be referred without recommendation.

Signed by Senator Stevens.

**Staff:** Curt Gavigan (786-7437)

**Background:** Retail sellers of food fish, commercialized game fish, and shellfish must maintain sufficient records for the Department of Fish and Wildlife (Department) to be able to ascertain the origin of the fish and shellfish in their possession. A retail fish seller is guilty of a misdemeanor when the seller sells fish or shellfish at retail, a fish receiving ticket was required, the seller is not a wholesale fish dealer or fisher selling under a direct retail sale endorsement, and the seller fails to maintain sufficient records regarding the origins of the fish sold.

The Department also has the authority to inspect the premises, containers, equipment, fish, shellfish, and wildlife, or any records required by the Department for any cold storage plant that the Department has probable cause to believe contains fish, shellfish, or wildlife. However, no provision sets forth the specific records that a cold storage facility must retain. Thus, the Department's ability to investigate illegal fish and shellfish harvests at cold storage facilities is limited. Likewise, the Department has expressed concern that it has limited ability to investigate the records of shippers, brokers, and others who hold commercial fish and shellfish for other persons.

**Summary of Substitute Bill:** Secondary commercial fish receivers must maintain sufficient records so that the Department can ascertain the origin of fish and shellfish in their

possession. The term secondary commercial fish receiver is defined as "persons possessing or controlling possession of fish and shellfish that have been or should have been recorded on fish receiving tickets, or have been or should have been recorded on aquatic farm production reports. Secondary commercial fish receivers include, but are not limited to, retail sales outlets, cold storage facilities, shippers, brokers, and other businesses that hold commercial fish and shellfish for other persons."

A person is guilty of a secondary commercial fish receiver's failure to account for commercial harvest, a misdemeanor, if that person "sells fish or shellfish at retail, stores or holds fish or shellfish for another, ships fish or shellfish, or brokers fish or shellfish, the fish or shellfish were required to be entered on a Washington state fish receiving ticket or a Washington aquatic farm production report, the person is not a wholesale fish dealer, fisher selling under a direct retail sale endorsement, or registered aquatic farmer, and the person fails to maintain records of each receipt of fish or shellfish at the location where the fish or shellfish are being sold, at the location where the fish or shellfish are being stored or held, or the principal place of business of the shipper or broker, or violates the recordkeeping requirements of this section." Records of receipt must be maintained for three years after receipt, shipping date, or after the product is brokered.

Records maintained by businesses that retail or broker must include: (1) the name of the party from whom they purchased or received the fish or shellfish; (2) the fish receiving ticket number or aquatic farm production annual report, if known; (3) the date of purchase or receipt; and (4) the amount of fish or shellfish received.

Records maintained by businesses that store, hold, or ship fish or shellfish for others must include: (1) the name, address, and phone number of the party from whom the fish or shellfish were received; (2) the date of receipt; and (3) the amount of fish or shellfish received.

**Substitute Bill Compared to Original Bill:** The substitute bill clarifies that an aquatic farm production report is an annual report.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** The Department's mandate is to preserve and protect fish and wildlife, but also to protect legitimate commercial activities. Currently, fish retailers must keep records to allow the Department to track the source of the fish in their possession. This provision will allow the Department to ensure that persons who store or hold fish, but do not retail, must keep records as well. Such businesses generally already keep the information covered by this bill. This bill will serve as a tool to assist the Department investigate poaching.

**Testimony Against:** None.

**Who Testified:** PRO: Bruce Bjork, Department of Fish and Wildlife; Mike Cenci, Department of Fish and Wildlife.