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HOUSE BILL 1078

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State of Washington

60th Legislature

2007 Regular Session

By Representatives Kretz and B. Sullivan

Read first time 01/10/2007. Referred to Committee on Agriculture & Natural Resources.

1 AN ACT Relating to unlawfully hunting while upon the property of  
2 another; amending RCW 77.15.420; adding a new section to chapter 77.15  
3 RCW; and prescribing penalties.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 77.15 RCW  
6 to read as follows:

7 (1) A person is guilty of unlawfully hunting upon the property of  
8 another if the person knowingly enters or remains unlawfully in or upon  
9 premises of another for the purposes of hunting for wild animals or  
10 wild birds.

11 (2) For the purposes of this section, "enters or remains  
12 unlawfully" means a person who enters or remains unlawfully in or upon  
13 premises when he or she is not then licensed, invited, or otherwise  
14 privileged to so enter or remain. A person who enters or remains upon  
15 unimproved and apparently unused land, which is neither fenced nor  
16 otherwise enclosed in a manner designed to exclude intruders, does so  
17 with license and privilege unless notice against trespass is personally  
18 communicated to the person by the owner of the land or some other  
19 authorized person, or unless notice is given by posting in a

1 conspicuous manner. Land that is used for commercial aquaculture or  
2 for growing an agricultural crop or crops, other than timber, is not  
3 unimproved and apparently unused land if a crop or any other sign of  
4 cultivation is clearly visible or if notice is given by posting in a  
5 conspicuous manner. Similarly, a field fenced in any manner is not  
6 unimproved and apparently unused land. A license or privilege to enter  
7 or remain on improved and apparently used land that is open to the  
8 public at particular times, which is neither fenced nor otherwise  
9 enclosed in a manner to exclude intruders, is not a license or  
10 privilege to enter or remain on the land at other times if notice of  
11 prohibited times of entry is posted in a conspicuous manner.

12 (3) Unlawfully hunting upon the property of another is a  
13 misdemeanor.

14 (4) If a person unlawfully hunts upon the property of another and  
15 kills an animal classified by the commission as a big game animal,  
16 then, upon conviction of unlawfully hunting upon the property of  
17 another, the department shall revoke all hunting licenses and tags and  
18 order a suspension of hunting privileges for two years.

19 **Sec. 2.** RCW 77.15.420 and 2005 c 406 s 5 are each amended to read  
20 as follows:

21 (1) If a person is convicted of violating RCW 77.15.410 or section  
22 1 of this act and that violation results in the death of wildlife  
23 listed in this section, the court shall require payment of the  
24 following amounts for each animal killed or possessed. This shall be  
25 a criminal wildlife penalty assessment that shall be paid to the clerk  
26 of the court and distributed each month to the state treasurer for  
27 deposit in the fish and wildlife enforcement reward account created in  
28 RCW 77.15.425.

- |    |     |   |         |
|----|-----|---|---------|
| 29 | (a) | Moose, mountain sheep, mountain         |         |
| 30 |     | goat, and all wildlife species          |         |
| 31 |     | classified as endangered by rule        |         |
| 32 |     | of the commission, except for           |         |
| 33 |     | mountain caribou and grizzly            |         |
| 34 |     | bear as listed under (d) of this        |         |
| 35 |     | subsection . . . . .                    | \$4,000 |
| 36 | (b) | Elk, deer, black bear, and cougar . . . | \$2,000 |

- 1 (c) Trophy animal elk and deer . . . . . \$6,000  
2 (d) Mountain caribou, grizzly bear, and  
3 trophy animal mountain sheep . . . \$12,000

4 (2) No forfeiture of bail may be less than the amount of the bail  
5 established for hunting during closed season plus the amount of the  
6 criminal wildlife penalty assessment in subsection (1) of this section.

7 (3) For the purpose of this section a "trophy animal" is:

8 (a) A buck deer with four or more antler points on both sides, not  
9 including eyeguards;

10 (b) A bull elk with five or more antler points on both sides, not  
11 including eyeguards; or

12 (c) A mountain sheep with a horn curl of three-quarter curl or  
13 greater.

14 For purposes of this subsection, "eyeguard" means an antler  
15 protrusion on the main beam of the antler closest to the eye of the  
16 animal.

17 (4) If two or more persons are convicted of illegally possessing  
18 wildlife in subsection (1) of this section, the criminal wildlife  
19 penalty assessment shall be imposed on them jointly and separately.

20 (5) The criminal wildlife penalty assessment shall be imposed  
21 regardless of and in addition to any sentence, fines, or costs  
22 otherwise provided for violating any provision of this title. The  
23 criminal wildlife penalty assessment shall be included by the court in  
24 any pronouncement of sentence and may not be suspended, waived,  
25 modified, or deferred in any respect. This section may not be  
26 construed to abridge or alter alternative rights of action or remedies  
27 in equity or under common law or statutory law, criminal or civil.

28 (6) A defaulted criminal wildlife penalty assessment may be  
29 collected by any means authorized by law for the enforcement of orders  
30 of the court or collection of a fine or costs, including but not  
31 limited to vacation of a deferral of sentencing or vacation of a  
32 suspension of sentence.

33 (7) A person assessed a criminal wildlife penalty assessment under  
34 this section shall have his or her hunting license revoked and all  
35 hunting privileges suspended until the penalty assessment is paid  
36 through the registry of the court in which the penalty assessment was  
37 assessed.

1           (8) The criminal wildlife penalty assessments provided in  
2 subsection (1) of this section shall be doubled in the following  
3 instances:

4           (a) When a person is convicted of spotlighting big game under RCW  
5 77.15.450;

6           (b) When a person commits a violation that requires payment of a  
7 wildlife penalty assessment within five years of a prior gross  
8 misdemeanor or felony conviction under this title;

9           (c) When the person killed the animal in question with the intent  
10 of bartering, selling, or otherwise deriving economic profit from the  
11 animal or the animal's parts; or

12           (d) When a person kills the animal under the supervision of a  
13 licensed guide.

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