
**Agriculture & Natural Resources
Committee**

HB 1778

Brief Description: Modifying various provisions of Title 77 RCW.

Sponsors: Representative Blake; by request of Department of Fish and Wildlife.

Brief Summary of Bill

- Makes a number of housekeeping changes to Title 77.
- Adds additional prongs to the definition of "conviction" as used in Title 77.
- Expands the commercial fishing privileges that that the Department of Fish and Wildlife can suspend in the case of multiple violations.
- Includes all rules of the Fish and Wildlife Commission in the list of civil infractions that can give rise to a license revocation.
- Changes the name, scope, and jurisdiction of salmon guide licenses.
- Clarifies that secondary buyers of fish are not required to obtain a game fish license as long as the person they bought the fish from did have a license.
- Clarifies that the Fish and Wildlife Commission is authorized to establish the beginning date of the lowland lake fishing season.

Hearing Date: 2/10/09

Staff: Jason Callahan (786-7117)

Background:

Title 77 constitutes the majority of the statutes that direct the functions and authorities of the Washington Department of Fish and Wildlife (WDFW). There are a myriad of legal concepts within the 25 chapters that constitute Title 77. These include how and when a citizen can be convicted of a fish or wildlife crime, under what conditions the WDFW can issue a license to

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engage in some aspect of fish and wildlife related activities, and how the WDFW manages the wildlife species under their jurisdiction.

Criminal Convictions

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 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 to assure the defendant's appearance in court; and
- a guilty plea [RCW 77.15.050].

The WDFW may suspend a person's privilege to fish commercially if the person is convicted two or more times within three years of a commercial fishing violation. The suspension of privileges only applies to the fishery within which the violation occurred.

Licensing

The WDFW offers a taxidermy license and a fur buyer's license to individuals interested in pursuing the commercial aspects of these industries. License holders are required to abide by any rule of the Fish and Wildlife Commission (Commission) relating to the use, possession, display, or presentation of the license. Failure to do so may result in a criminal prosecution of the unlawful use of a commercial wildlife license [RCW 77.15.610].

The WDFW also offers a number of short-term fishing licenses. These licenses allow for fishing between one and five days. However, only active duty military personnel may fish during the first eight days of the lowland lake fishing season with a short-term license [RCW 77.32.470].

Individuals must obtain a salmon guide license from the WDFW before they are allowed to operate a guide service in freshwater rivers and streams for anglers catching salmon for personal use. The salmon guide license is not necessary if the guide services take place between the mouth of the Columbia River and the Lewis and Clark Bridge in Longview.

Summary of Bill:

A number of changes are made throughout Title 77 that affect how the WDFW executes its responsibilities and how individuals are expected to interact with the WDFW. Statutory changes can be grouped into the following broad categories: (1) antiquated and redundant references; (2) criminal convictions; and (3) licensing.

Antiquated and Redundant References

A number of references to other statutes throughout Title 77 are removed or corrected to reflect current codifications. These corrected antiquated references are located in sections of the code that deal with criminal convictions and fish passage requirements. In addition, a redundant section of the code relating to wildlife viewing is repealed.

Criminal Convictions

The definition of "conviction" is changed to include the failure to appear at a hearing to contest an infraction or a criminal charge and to clarify that the definition includes a bail forfeiture that serves as a final disposition for an offense. In addition, the section of law that requires license suspensions following a conviction is reorganized with subsections.

The WDFW's responsibility to revoke a license after a criminal conviction or finding of a civil infraction is expanded to include violations of any rules of the Commission that are punished civilly, and not just violations of rules relating to catch reporting and fishing with barbed hooks. In addition, the WDFW is authorized to suspend all commercial fishing privileges of a person who is convicted multiple times within three years, and not just the privilege of participating in the fishery where the violation occurred.

Licensing

The instances of when a holder of a taxidermy or fur buyer's license may be prosecuted for the unlawful use of a commercial wildlife license is expanded to include violations of reporting requirements adopted by the Commission. Also, the activities used to describe when a fur dealer and other wildlife professionals are required to be permitted are changed from activities done for profit to activities that satisfy an existing definition of commercial purposes.

The Commission is clearly authorized to establish the beginning date of the lowland lake fishing season, which sets the eight days that active duty military personnel alone may participate in the fishery with a temporary combination license.

The requirements for having a salmon guide license are expanded to require a license before guiding for any food fish. In addition, the exemption for not needing a guide license below the Lewis and Clark Bridge in Longview on the Columbia River is removed. Although a food fish license is not required, a person charging a fee to allow others to fish from his or her boat must obtain a charter boat license in this segment of the river.

It is made clear that secondary buyers of fish are not required to obtain a game fish license as long as the person they bought the fish from had a license.

Appropriation: None.

Fiscal Note: Not requested.

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