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**SUBSTITUTE HOUSE BILL 1838**

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**State of Washington                      61st Legislature                      2009 Regular Session**

**By** House Agriculture & Natural Resources (originally sponsored by Representatives Orcutt and Blake)

READ FIRST TIME 02/20/09.

1            AN ACT Relating to the creation of a raffle-only limited  
2 recreational rainbow trout fishery in Spirit Lake; amending RCW  
3 77.32.050, 77.08.010, 9.46.400, and 9.46.010; and adding a new section  
4 to chapter 77.32 RCW.

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

6            NEW SECTION.    **Sec. 1.** A new section is added to chapter 77.32 RCW  
7 to read as follows:

8            (1) The commission may establish a limited recreational fishery for  
9 rainbow trout in Spirit Lake, located within the Mount St. Helens  
10 national volcanic monument. Authorizations to participate in the  
11 Spirit Lake fishery must be distributed through a raffle established by  
12 the commission and conducted by the department.

13            (2) The use of any revenues collected through the raffle authorized  
14 by this section must be prioritized as follows, with any remaining  
15 revenue being transferred to the state wildlife account created in RCW  
16 77.12.170:

17            (a) Fully reimbursing the department for the expense of conducting  
18 the raffle;

1 (b) Funding the department staff time necessary for the  
2 development, management, and implementation of the fishery; and

3 (c) Purchasing or renting the equipment necessary to implement the  
4 fishery.

5 (3) If a Spirit Lake fishery is authorized, the department shall  
6 establish procedures and requirements for the fishery. These  
7 procedures and requirements include:

8 (a) A requirement that participants in the fishery obtain all  
9 licenses required by this chapter for a person engaging in recreational  
10 fishing;

11 (b) The identification of a limited number of days during which the  
12 fishery will be open;

13 (c) A determination of whether the fishery is strictly catch and  
14 release or whether there is a daily or cumulative maximum number of  
15 rainbow trout allowed to be removed from Spirit Lake;

16 (d) The identification of allowable bait and gear types;

17 (e) Catch reporting requirements designed to assist with the  
18 monitoring of the Spirit Lake rainbow trout population; and

19 (f) Restrictions on transportation to Spirit Lake, items allowed in  
20 Spirit Lake, and allowable floatation devices intended to reduce the  
21 risk of introducing new aquatic species to Spirit Lake.

22 (4) The department shall coordinate with the United States forest  
23 service in the design, monitoring, and implementation of any fishery  
24 located in Spirit Lake or elsewhere in the Mount St. Helens national  
25 volcanic monument, including the arrangement of access to Spirit Lake  
26 for the raffle winners.

27 **Sec. 2.** RCW 77.32.050 and 2003 c 389 s 1 are each amended to read  
28 as follows:

29 (1) All recreational licenses, permits, tags, raffle tickets, and  
30 stamps required or authorized by this title (~~and raffle tickets~~  
31 ~~authorized under chapter 77.12 RCW~~) shall be issued under the  
32 authority of the commission.

33 (2) The commission shall adopt rules for the issuance of  
34 recreational licenses, permits, tags, stamps, and raffle tickets, and  
35 for the collection, payment, and handling of license fees, terms and  
36 conditions to govern dealers, and dealers' fees.

1       (3) A transaction fee on recreational documents issued through an  
2 automated licensing system may be set by the commission and collected  
3 from licensees. The department may authorize all or part of such fee  
4 to be paid directly to a contractor providing automated licensing  
5 system services. Fees retained by dealers shall be uniform throughout  
6 the state. The department shall authorize dealers to collect and  
7 retain dealer fees of at least two dollars for purchase of a standard  
8 hunting or fishing recreational license document, except that the  
9 commission may set a lower dealer fee for issuance of tags or when a  
10 licensee buys a license that involves a stamp or display card format  
11 rather than a standard department licensing document form.

12       **Sec. 3.** RCW 77.08.010 and 2008 c 277 s 2 are each amended to read  
13 as follows:

14       The definitions in this section apply throughout this title or  
15 rules adopted under this title unless the context clearly requires  
16 otherwise.

17       (1) "Angling gear" means a line attached to a rod and reel capable  
18 of being held in hand while landing the fish or a hand-held line  
19 operated without rod or reel.

20       (2) "Aquatic invasive species" means any invasive, prohibited,  
21 regulated, unregulated, or unlisted aquatic animal or plant species as  
22 defined under subsections (~~((48) through (53))~~) (3), (25), (34), (38),  
23 (51), and (52) of this section, aquatic noxious weeds as defined under  
24 RCW 17.26.020(5)(c), and aquatic nuisance species as defined under RCW  
25 77.60.130(1).

26       (3) "Aquatic plant species" means an emergent, submersed, partially  
27 submersed, free-floating, or floating-leaving plant species that grows  
28 in or near a body of water or wetland.

29       (4) "Bag limit" means the maximum number of game animals, game  
30 birds, or game fish which may be taken, caught, killed, or possessed by  
31 a person, as specified by rule of the commission for a particular  
32 period of time, or as to size, sex, or species.

33       (5) "Closed area" means a place where the hunting of some or all  
34 species of wild animals or wild birds is prohibited.

35       (6) "Closed season" means all times, manners of taking, and places  
36 or waters other than those established by rule of the commission as an  
37 open season. "Closed season" also means all hunting, fishing, taking,

1 or possession of game animals, game birds, game fish, food fish, or  
2 shellfish that do not conform to the special restrictions or physical  
3 descriptions established by rule of the commission as an open season or  
4 that have not otherwise been deemed legal to hunt, fish, take, harvest,  
5 or possess by rule of the commission as an open season.

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

8 (8) "Commercial" means related to or connected with buying,  
9 selling, or bartering.

10 (9) "Commission" means the state fish and wildlife commission.

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

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

17 (12) "Department" means the department of fish and wildlife.

18 (13) "Director" means the director of fish and wildlife.

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

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

30 (16) "Fish" includes all species classified as game fish or food  
31 fish by statute or rule, as well as all fin fish not currently  
32 classified as food fish or game fish if such species exist in state  
33 waters. The term "fish" includes all stages of development and the  
34 bodily parts of fish species.

35 (17) "Fish and wildlife officer" means a person appointed and  
36 commissioned by the director, with authority to enforce this title and  
37 rules adopted pursuant to this title, and other statutes as prescribed

1 by the legislature. Fish and wildlife officer includes a person  
2 commissioned before June 11, 1998, as a wildlife agent or a fisheries  
3 patrol officer.

4 (18) "Fishery" means the taking of one or more particular species  
5 of fish or shellfish with particular gear in a particular geographical  
6 area.

7 (19) "Freshwater" means all waters not defined as saltwater  
8 including, but not limited to, rivers upstream of the river mouth,  
9 lakes, ponds, and reservoirs.

10 (20) "Fur-bearing animals" means game animals that shall not be  
11 trapped except as authorized by the commission.

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

14 (22) "Game birds" means wild birds that shall not be hunted except  
15 as authorized by the commission.

16 (23) "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 (24) "Game reserve" means a closed area where hunting for all wild  
20 animals and wild birds is prohibited.

21 (25) "Invasive species" means a plant species or a nonnative animal  
22 species that either:

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

25 (b) Threatens or may threaten natural resources or their use in the  
26 state;

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

29 (d) Threatens or harms human health.

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

33 (27) "Limited-entry license" means a license subject to a license  
34 limitation program established in chapter 77.70 RCW.

35 (28) "Nonresident" means a person who has not fulfilled the  
36 qualifications of a resident.

37 (29) "Offshore waters" means marine waters of the Pacific Ocean

1 outside the territorial boundaries of the state, including the marine  
2 waters of other states and countries.

3 (30) "Open season" means those times, manners of taking, and places  
4 or waters established by rule of the commission for the lawful hunting,  
5 fishing, taking, or possession of game animals, game birds, game fish,  
6 food fish, or shellfish that conform to the special restrictions or  
7 physical descriptions established by rule of the commission or that  
8 have otherwise been deemed legal to hunt, fish, take, harvest, or  
9 possess by rule of the commission. "Open season" includes the first  
10 and last days of the established time.

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

17 (32) "Personal use" means for the private use of the individual  
18 taking the fish or shellfish and not for sale or barter.

19 (33) "Predatory birds" means wild birds that may be hunted  
20 throughout the year as authorized by the commission.

21 (34) "Prohibited aquatic animal species" means an invasive species  
22 of the animal kingdom that has been classified as a prohibited aquatic  
23 animal species by the commission.

24 (35) "Protected wildlife" means wildlife designated by the  
25 commission that shall not be hunted or fished.

26 (36) "Raffle" means an activity in which tickets bearing an  
27 individual number are sold for not more than twenty-five dollars each  
28 and in which a permit or permits are awarded consistent with the  
29 authorizing statutes in chapter 77.32 RCW to hunt or for access to hunt  
30 big game animals or wild turkeys or to fish for rainbow trout in Spirit  
31 Lake on the basis of a drawing from the tickets by the person or  
32 persons conducting the raffle.

33 (37) "Recreational and commercial watercraft" includes the boat, as  
34 well as equipment used to transport the boat, and any auxiliary  
35 equipment such as attached or detached outboard motors.

36 (38) "Regulated aquatic animal species" means a potentially  
37 invasive species of the animal kingdom that has been classified as a  
38 regulated aquatic animal species by the commission.

1 (39) "Resident" means:  
2 (a) A person who has maintained a permanent place of abode within  
3 the state for at least ninety days immediately preceding an application  
4 for a license, has established by formal evidence an intent to continue  
5 residing within the state, and who is not licensed to hunt or fish as  
6 a resident in another state; and  
7 (b) A person age eighteen or younger who does not qualify as a  
8 resident under (a) of this subsection, but who has a parent that  
9 qualifies as a resident under (a) of this subsection.  
10 (40) "Retail-eligible species" means commercially harvested salmon,  
11 crab, and sturgeon.  
12 (41) "Saltwater" means those marine waters seaward of river mouths.  
13 (42) "Seaweed" means marine aquatic plant species that are  
14 dependent upon the marine aquatic or tidal environment, and exist in  
15 either an attached or free floating form, and includes but is not  
16 limited to marine aquatic plants in the classes Chlorophyta,  
17 Phaeophyta, and Rhodophyta.  
18 (43) "Senior" means a person seventy years old or older.  
19 (44) "Shellfish" means those species of marine and freshwater  
20 invertebrates that have been classified and that shall not be taken  
21 except as authorized by rule of the commission. The term "shellfish"  
22 includes all stages of development and the bodily parts of shellfish  
23 species.  
24 (45) "State waters" means all marine waters and fresh waters within  
25 ordinary high water lines and within the territorial boundaries of the  
26 state.  
27 (46) "To fish," "to harvest," and "to take," and their derivatives  
28 means an effort to kill, injure, harass, or catch a fish or shellfish.  
29 (47) "To hunt" and its derivatives means an effort to kill, injure,  
30 capture, or harass a wild animal or wild bird.  
31 (48) "To process" and its derivatives mean preparing or preserving  
32 fish, wildlife, or shellfish.  
33 (49) "To trap" and its derivatives means a method of hunting using  
34 devices to capture wild animals or wild birds.  
35 (50) "Trafficking" means offering, attempting to engage, or  
36 engaging in sale, barter, or purchase of fish, shellfish, wildlife, or  
37 deleterious exotic wildlife.

1 (51) "Unlisted aquatic animal species" means a nonnative animal  
2 species that has not been classified as a prohibited aquatic animal  
3 species, a regulated aquatic animal species, or an unregulated aquatic  
4 animal species by the commission.

5 (52) "Unregulated aquatic animal species" means a nonnative animal  
6 species that has been classified as an unregulated aquatic animal  
7 species by the commission.

8 (53) "Wild animals" means those species of the class Mammalia whose  
9 members exist in Washington in a wild state and the species *Rana*  
10 *catesbeiana* (bullfrog). The term "wild animal" does not include feral  
11 domestic mammals or old world rats and mice of the family Muridae of  
12 the order Rodentia.

13 (54) "Wild birds" means those species of the class Aves whose  
14 members exist in Washington in a wild state.

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

24 (56) "Youth" means a person fifteen years old for fishing and under  
25 sixteen years old for hunting.

26 **Sec. 4.** RCW 9.46.400 and 1996 c 101 s 3 are each amended to read  
27 as follows:

28 Any raffle authorized by the fish and wildlife commission involving  
29 hunting big game animals or wild turkeys, or authorized under section  
30 1 of this act, shall not be subject to any provisions of this chapter  
31 other than RCW 9.46.010 and this section or to any rules or regulations  
32 of the gambling commission.

33 **Sec. 5.** RCW 9.46.010 and 1996 c 101 s 2 are each amended to read  
34 as follows:

35 The public policy of the state of Washington on gambling is to keep



1 the criminal element out of gambling and to promote the social welfare  
2 of the people by limiting the nature and scope of gambling activities  
3 and by strict regulation and control.

4 It is hereby declared to be the policy of the legislature,  
5 recognizing the close relationship between professional gambling and  
6 organized crime, to restrain all persons from seeking profit from  
7 professional gambling activities in this state; to restrain all persons  
8 from patronizing such professional gambling activities; to safeguard  
9 the public against the evils induced by common gamblers and common  
10 gambling houses engaged in professional gambling; and at the same time,  
11 both to preserve the freedom of the press and to avoid restricting  
12 participation by individuals in activities and social pastimes, which  
13 activities and social pastimes are more for amusement rather than for  
14 profit, do not maliciously affect the public, and do not breach the  
15 peace.

16 The legislature further declares that the raising of funds for the  
17 promotion of bona fide charitable or nonprofit organizations is in the  
18 public interest as is participation in such activities and social  
19 pastimes as are hereinafter in this chapter authorized.

20 The legislature further declares that the conducting of bingo,  
21 raffles, and amusement games and the operation of punchboards, pull-  
22 tabs, card games and other social pastimes, when conducted pursuant to  
23 the provisions of this chapter and any rules and regulations adopted  
24 pursuant thereto, are hereby authorized, as are only such lotteries for  
25 which no valuable consideration has been paid or agreed to be paid as  
26 hereinafter in this chapter provided.

27 The legislature further declares that fishing derbies shall not  
28 constitute any form of gambling and shall not be considered as a  
29 lottery, a raffle, or an amusement game and shall not be subject to the  
30 provisions of this chapter or any rules and regulations adopted  
31 hereunder.

32 The legislature further declares that raffles authorized by the  
33 fish and wildlife commission involving hunting big game animals or wild  
34 turkeys, or authorized under section 1 of this act, shall not be  
35 subject to the provisions of this chapter or any rules and regulations  
36 adopted hereunder, with the exception of this section and RCW 9.46.400.

37 All factors incident to the activities authorized in this chapter

1 shall be closely controlled, and the provisions of this chapter shall  
2 be liberally construed to achieve such end.

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