
ENGROSSED SUBSTITUTE HOUSE BILL 1885

State of Washington

61st Legislature

2010 Regular Session

By House Agriculture & Natural Resources (originally sponsored by Representatives Van De Wege, Blake, Warnick, Takko, Ormsby, and Liias)

READ FIRST TIME 02/23/09.

1 AN ACT Relating to feeding wildlife; amending RCW 77.08.010 and
2 77.15.160; adding a new section to chapter 77.15 RCW; and creating a
3 new section.

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

5 NEW SECTION. **Sec. 1.** It is the intent of the legislature to
6 protect wildlife from becoming habituated to humans and to protect the
7 public against the serious health and safety risk posed by wildlife
8 that are drawn into contact with humans and related infrastructure by
9 individuals who intentionally feed wildlife.

10 NEW SECTION. **Sec. 2.** A new section is added to chapter 77.15 RCW
11 to read as follows:

12 (1) A person may not place, deposit, distribute, or scatter grain,
13 hay, or other food so as to intentionally constitute a lure,
14 attraction, or enticement for potentially habituated wildlife not
15 lawfully held in captivity.

16 (2)(a) Except as otherwise provided in this section, if a fish and
17 wildlife officer or an ex officio fish and wildlife officer receives a
18 complaint and has probable cause to believe that a person acted in

1 violation of this section, the officer may issue a written warning
2 requiring the person to contain, move, or remove the grain, hay, or
3 other food within two days.

4 (b) If a person who is issued a written warning under (a) of this
5 subsection fails to contain, move, or remove the grain, hay, or other
6 food as directed, a fish and wildlife officer or an ex officio fish and
7 wildlife officer may issue a natural resources infraction under chapter
8 7.84 RCW.

9 (3) This section does not apply to:

10 (a) A person who is hunting or trapping potentially habituated
11 wildlife in accordance with all other applicable provisions of this
12 title or rules of the commission or the director;

13 (b) A person who is engaged in a farming or ranching operation;

14 (c) A person who is feeding potentially habituated wildlife, with
15 the director's authorization, to prevent damage to private property;

16 (d) A person who is feeding potentially habituated wildlife, with
17 the director's authorization, to mitigate the population loss
18 anticipated by a predicted winter mortality;

19 (e) A person who is feeding potentially habituated wildlife, with
20 the director's authorization, as a part of a research or management
21 program;

22 (f) Waste disposal facilities operating in accordance with
23 applicable federal, state, and municipal laws; and

24 (g) Zoos and lawfully operated wildlife refuges, or wildlife
25 rehabilitators operating under RCW 77.12.467.

26 (4) Due to the documented, chronic malnutrition of the Mt. St.
27 Helens elk herd, no individual shall be issued a warning or a natural
28 resources infraction under this section for feeding elk in the Mt. St.
29 Helens elk herd management area, as identified in the Washington state
30 elk herd plan prepared by the department in May 2006, until July 31,
31 2019.

32 **Sec. 3.** RCW 77.08.010 and 2009 c 333 s 12 are each amended to read
33 as follows:

34 The definitions in this section apply throughout this title or
35 rules adopted under this title unless the context clearly requires
36 otherwise.

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

4 (2) "Aquatic invasive species" means any invasive, prohibited,
5 regulated, unregulated, or unlisted aquatic animal or plant species as
6 defined under subsections (3), (28), (40), (44), (58), and (59) of this
7 section, aquatic noxious weeds as defined under RCW 17.26.020(5)(c),
8 and aquatic nuisance species as defined under RCW 77.60.130(1).

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

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

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

18 (6) "Closed season" means all times, manners of taking, and places
19 or waters other than those established by rule of the commission as an
20 open season. "Closed season" also means all hunting, fishing, taking,
21 or possession of game animals, game birds, game fish, food fish, or
22 shellfish that do not conform to the special restrictions or physical
23 descriptions established by rule of the commission as an open season or
24 that have not otherwise been deemed legal to hunt, fish, take, harvest,
25 or possess by rule of the commission as an open season.

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

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

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

31 (10) "Concurrent waters of the Columbia river" means those waters
32 of the Columbia river that coincide with the Washington-Oregon state
33 boundary.

34 (11) "Contraband" means any property that is unlawful to produce or
35 possess.

36 (12) "Deleterious exotic wildlife" means species of the animal
37 kingdom not native to Washington and designated as dangerous to the
38 environment or wildlife of the state.

1 (13) "Department" means the department of fish and wildlife.
2 (14) "Director" means the director of fish and wildlife.
3 (15) "Endangered species" means wildlife designated by the
4 commission as seriously threatened with extinction.
5 (16) "Ex officio fish and wildlife officer" means a commissioned
6 officer of a municipal, county, state, or federal agency having as its
7 primary function the enforcement of criminal laws in general, while the
8 officer is in the appropriate jurisdiction. The term "ex officio fish
9 and wildlife officer" includes special agents of the national marine
10 fisheries service, state parks commissioned officers, United States
11 fish and wildlife special agents, department of natural resources
12 enforcement officers, and United States forest service officers, while
13 the agents and officers are within their respective jurisdictions.
14 (17) "Fish" includes all species classified as game fish or food
15 fish by statute or rule, as well as all fin fish not currently
16 classified as food fish or game fish if such species exist in state
17 waters. The term "fish" includes all stages of development and the
18 bodily parts of fish species.
19 (18) "Fish and wildlife officer" means a person appointed and
20 commissioned by the director, with authority to enforce this title and
21 rules adopted pursuant to this title, and other statutes as prescribed
22 by the legislature. Fish and wildlife officer includes a person
23 commissioned before June 11, 1998, as a wildlife agent or a fisheries
24 patrol officer.
25 (19) "Fish broker" means a person whose business it is to bring a
26 seller of fish and shellfish and a purchaser of those fish and
27 shellfish together.
28 (20) "Fishery" means the taking of one or more particular species
29 of fish or shellfish with particular gear in a particular geographical
30 area.
31 (21) "Freshwater" means all waters not defined as saltwater
32 including, but not limited to, rivers upstream of the river mouth,
33 lakes, ponds, and reservoirs.
34 (22) "Fur-bearing animals" means game animals that shall not be
35 trapped except as authorized by the commission.
36 (23) "Game animals" means wild animals that shall not be hunted
37 except as authorized by the commission.

1 (24) "Game birds" means wild birds that shall not be hunted except
2 as authorized by the commission.

3 (25) "Game farm" means property on which wildlife is held or raised
4 for commercial purposes, trade, or gift. The term "game farm" does not
5 include publicly owned facilities.

6 (26) "Game reserve" means a closed area where hunting for all wild
7 animals and wild birds is prohibited.

8 (27) "Illegal items" means those items unlawful to be possessed.

9 (28) "Invasive species" means a plant species or a nonnative animal
10 species that either:

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

13 (b) Threatens or may threaten natural resources or their use in the
14 state;

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

17 (d) Threatens or harms human health.

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

21 (30) "Limited-entry license" means a license subject to a license
22 limitation program established in chapter 77.70 RCW.

23 (31) "Money" means all currency, script, personal checks, money
24 orders, or other negotiable instruments.

25 (32) "Nonresident" means a person who has not fulfilled the
26 qualifications of a resident.

27 (33) "Offshore waters" means marine waters of the Pacific Ocean
28 outside the territorial boundaries of the state, including the marine
29 waters of other states and countries.

30 (34) "Open season" means those times, manners of taking, and places
31 or waters established by rule of the commission for the lawful hunting,
32 fishing, taking, or possession of game animals, game birds, game fish,
33 food fish, or shellfish that conform to the special restrictions or
34 physical descriptions established by rule of the commission or that
35 have otherwise been deemed legal to hunt, fish, take, harvest, or
36 possess by rule of the commission. "Open season" includes the first
37 and last days of the established time.

1 (35) "Owner" means the person in whom is vested the ownership
2 dominion, or title of the property.

3 (36) "Person" means and includes an individual; a corporation; a
4 public or private entity or organization; a local, state, or federal
5 agency; all business organizations, including corporations and
6 partnerships; or a group of two or more individuals acting with a
7 common purpose whether acting in an individual, representative, or
8 official capacity.

9 (37) "Personal property" or "property" includes both corporeal and
10 incorporeal personal property and includes, among other property,
11 contraband and money.

12 (38) "Personal use" means for the private use of the individual
13 taking the fish or shellfish and not for sale or barter.

14 (39) "Predatory birds" means wild birds that may be hunted
15 throughout the year as authorized by the commission.

16 (40) "Prohibited aquatic animal species" means an invasive species
17 of the animal kingdom that has been classified as a prohibited aquatic
18 animal species by the commission.

19 (41) "Protected wildlife" means wildlife designated by the
20 commission that shall not be hunted or fished.

21 (42) "Raffle" means an activity in which tickets bearing an
22 individual number are sold for not more than twenty-five dollars each
23 and in which a permit or permits are awarded to hunt or for access to
24 hunt big game animals or wild turkeys on the basis of a drawing from
25 the tickets by the person or persons conducting the raffle.

26 (43) "Recreational and commercial watercraft" includes the boat, as
27 well as equipment used to transport the boat, and any auxiliary
28 equipment such as attached or detached outboard motors.

29 (44) "Regulated aquatic animal species" means a potentially
30 invasive species of the animal kingdom that has been classified as a
31 regulated aquatic animal species by the commission.

32 (45) "Resident" means:

33 (a) A person who has maintained a permanent place of abode within
34 the state for at least ninety days immediately preceding an application
35 for a license, has established by formal evidence an intent to continue
36 residing within the state, and who is not licensed to hunt or fish as
37 a resident in another state; and

1 (b) A person age eighteen or younger who does not qualify as a
2 resident under (a) of this subsection, but who has a parent that
3 qualifies as a resident under (a) of this subsection.

4 (46) "Retail-eligible species" means commercially harvested salmon,
5 crab, and sturgeon.

6 (47) "Saltwater" means those marine waters seaward of river mouths.

7 (48) "Seaweed" means marine aquatic plant species that are
8 dependent upon the marine aquatic or tidal environment, and exist in
9 either an attached or free floating form, and includes but is not
10 limited to marine aquatic plants in the classes Chlorophyta,
11 Phaeophyta, and Rhodophyta.

12 (49) "Senior" means a person seventy years old or older.

13 (50) "Shellfish" means those species of marine and freshwater
14 invertebrates that have been classified and that shall not be taken
15 except as authorized by rule of the commission. The term "shellfish"
16 includes all stages of development and the bodily parts of shellfish
17 species.

18 (51) "State waters" means all marine waters and fresh waters within
19 ordinary high water lines and within the territorial boundaries of the
20 state.

21 (52) "To fish," "to harvest," and "to take," and their derivatives
22 means an effort to kill, injure, harass, or catch a fish or shellfish.

23 (53) "To hunt" and its derivatives means an effort to kill, injure,
24 capture, or harass a wild animal or wild bird.

25 (54) "To process" and its derivatives mean preparing or preserving
26 fish, wildlife, or shellfish.

27 (55) "To trap" and its derivatives means a method of hunting using
28 devices to capture wild animals or wild birds.

29 (56) "Trafficking" means offering, attempting to engage, or
30 engaging in sale, barter, or purchase of fish, shellfish, wildlife, or
31 deleterious exotic wildlife.

32 (57) "Unclaimed" means that no owner of the property has been
33 identified or has requested, in writing, the release of the property to
34 themselves nor has the owner of the property designated an individual
35 to receive the property or paid the required postage to effect delivery
36 of the property.

37 (58) "Unlisted aquatic animal species" means a nonnative animal

1 species that has not been classified as a prohibited aquatic animal
2 species, a regulated aquatic animal species, or an unregulated aquatic
3 animal species by the commission.

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

7 (60) "Wholesale fish dealer" means a person who, acting for
8 commercial purposes, takes possession or ownership of fish or shellfish
9 and sells, barter, or exchanges or attempts to sell, barter, or
10 exchange fish or shellfish that have been landed into the state of
11 Washington or entered the state of Washington in interstate or foreign
12 commerce.

13 (61) "Wild animals" means those species of the class Mammalia whose
14 members exist in Washington in a wild state and the species *Rana*
15 *catesbeiana* (bullfrog). The term "wild animal" does not include feral
16 domestic mammals or old world rats and mice of the family Muridae of
17 the order Rodentia.

18 (62) "Wild birds" means those species of the class Aves whose
19 members exist in Washington in a wild state.

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

29 (64) "Youth" means a person fifteen years old for fishing and under
30 sixteen years old for hunting.

31 (65) "Potentially habituated wildlife" includes bear, cougar, wolf,
32 coyote, deer, elk, and raccoon.

33 **Sec. 4.** RCW 77.15.160 and 2000 c 107 s 237 are each amended to
34 read as follows:

35 A person is guilty of an infraction, which shall be cited and
36 punished as provided under chapter 7.84 RCW, if the person:

1 (1) Fails to immediately record a catch of fish or shellfish on a
2 catch record card required by RCW 77.32.430, or required by rule of the
3 commission under this title; ((~~or~~))

4 (2) Fishes for personal use using barbed hooks in violation of any
5 rule; ((~~or~~))

6 (3) Intentionally feeds potentially habituated wildlife in
7 violation of a written warning issued under section 2 of this act; or

8 (4) Violates any other rule of the commission or director that is
9 designated by rule as an infraction.

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