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HOUSE BILL 2266

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State of Washington

61st Legislature

2009 Regular Session

By Representatives Simpson, Orcutt, Dunshee, Upthegrove, Priest, and Wallace

Read first time 02/19/09. Referred to Committee on Agriculture & Natural Resources.

1 AN ACT Relating to commercial salmon fishing gear; amending RCW  
2 77.04.012, 77.50.030, and 77.50.050; creating a new section; and  
3 repealing RCW 77.50.110 and 77.50.120.

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

5 NEW SECTION. **Sec. 1.** (1) The legislature finds that the state has  
6 a vital interest in the recovery of wild, depressed, and endangered  
7 salmon and steelhead populations, and recognizes the need to manage  
8 commercial and recreational fisheries consistent with efforts to  
9 protect and recover wild salmon and steelhead. The department's  
10 management of harvest has a key role in leveraging record salmon  
11 recovery investments to protect and restore habitat, improve  
12 hatcheries, and make hydroelectric operations more fish friendly.

13 (2)(a) The legislature further finds that due to the widespread  
14 external marking of hatchery produced salmon it is possible to  
15 differentiate between marked hatchery fish and unmarked wild fish.  
16 Independent, congressionally chartered, scientific reviews have  
17 identified an urgent need to reduce the negative impacts of excess  
18 returning hatchery salmon through the selective harvest of marked  
19 hatchery fish while protecting wild salmon stocks needed for recovery.

1 In mixed stock fisheries, these selective methods must be capable of  
2 catching and releasing wild, depressed, and endangered salmon stocks  
3 unharmed so they can reach the spawning grounds.

4 (b) The legislature reaffirms that the department of fish and  
5 wildlife's management of the state's fish and wildlife resources should  
6 be based on long-term sustainability, recovery of wild endangered  
7 stocks, and the best available science for sound management practices.  
8 The federal endangered species act also requires that the state's  
9 management of hatcheries and harvest does not jeopardize the health of  
10 listed wild salmon or steelhead species.

11 (3) The legislature further finds that an urgent need exists for  
12 the department of fish and wildlife to evaluate and recommend  
13 alternative types of salmon fishing gear that will minimize the impact  
14 of fishing on wild, depressed, and endangered salmon and steelhead  
15 populations. Although current state law directs the department of fish  
16 and wildlife to evaluate and implement these alternative gear types,  
17 little progress has been made to make critically needed advances. Many  
18 forms of these gear types have been used successfully for hundreds of  
19 years and at least one of these methods is currently being used by the  
20 Colville tribe in the upper Columbia river.

21 (4) It is the intent of this act to reaffirm the legislature's  
22 support for opportunities to optimize the economic benefits resulting  
23 from fishing in the state while protecting and recovering wild,  
24 depressed, and endangered salmon populations. By selectively  
25 harvesting marked hatchery salmon and avoiding the harvest of unmarked  
26 wild salmon, commercial and recreational fishers will have greater  
27 access to plentiful surplus hatchery fish under federal endangered  
28 species act requirements. This will result in increased economic  
29 activity in rural areas, new markets for tourism, and the preservation  
30 of an iconic species for the enjoyment of future generations.

31 **Sec. 2.** RCW 77.04.012 and 2000 c 107 s 2 are each amended to read  
32 as follows:

33 Wildlife, fish, and shellfish are the property of the state. The  
34 commission, director, and the department shall preserve, protect,  
35 perpetuate, and manage the wildlife and food fish, game fish, and  
36 shellfish in state waters and offshore waters.

1 The department shall conserve the wildlife and food fish, game  
2 fish, and shellfish resources in a manner that does not impair the  
3 resource. In a manner consistent with this goal, the department shall  
4 seek to (~~maintain the economic well-being and stability of the fishing~~  
5 ~~industry in the state~~) optimize the economic benefits resulting from  
6 fishing in the state. The department shall promote orderly and  
7 sustainable fisheries (~~and shall enhance and improve recreational and~~  
8 ~~commercial~~) with the goal of enhancing and improving opportunities for  
9 fishing in this state.

10 The commission may authorize the taking of wildlife, food fish,  
11 game fish, and shellfish only at times or places, or in manners or  
12 quantities, as in the judgment of the commission does not impair the  
13 (~~supply~~) long-term sustainability of these resources.

14 The commission shall attempt to maximize the public recreational  
15 game fishing and hunting opportunities of all citizens, including  
16 juveniles, (~~disabled~~) individuals with disabilities, and senior  
17 citizens.

18 Recognizing that the management of our state wildlife, food fish,  
19 game fish, and shellfish resources depends heavily on the assistance of  
20 volunteers, the department shall work cooperatively with volunteer  
21 groups and individuals to achieve the goals of this title to the  
22 greatest extent possible.

23 Nothing in this title shall be construed to infringe on the right  
24 of a private property owner to control the owner's private property.

25 **Sec. 3.** RCW 77.50.030 and 2001 c 163 s 2 are each amended to read  
26 as follows:

27 (1) A person shall not use, operate, or maintain a gill net which  
28 exceeds one thousand five hundred feet in length (~~or a drag seine~~) in  
29 the waters of the Columbia river for catching salmon.

30 (2) (~~A person shall not construct, install, use, operate, or~~  
31 ~~maintain within state waters~~) The department may authorize the use of  
32 a pound net, round haul net, lampara net, fish trap, fish wheel, scow  
33 fish wheel, set net, weir, seine, or fixed appliance for (~~catching~~  
34 ~~salmon or steelhead except under the authority of a trial or~~  
35 ~~experimental fishery permit, when an emerging commercial fishery has~~  
36 ~~been designated allowing use of one or more of these gear types. The~~  
37 ~~director must consult with the commercial fishing interests that would~~

1 ~~be affected by the trial or experimental fishery permit))~~ the purpose  
2 of catching salmon in commercial, experimental, or test fisheries in  
3 state waters. In evaluating, implementing, and adopting rules for the  
4 use of this gear, the department shall recognize and optimize the use  
5 of gear designed to minimize the lethality of commercial salmon fishing  
6 to nontarget, endangered, and depressed wild stocks of salmonids and  
7 other species through the avoidance of or live capture, sorting, and  
8 release of these species with minimal mortality. The director may also  
9 authorize the use of this gear for scientific investigations.

10 (3) The department, in coordination with the Oregon department of  
11 fish and wildlife, shall adopt rules to regulate the use of  
12 monofilament in gill net webbing on the Columbia river.

13 (4) Not later than one year after the effective date of this  
14 section, the department shall provide a report to the legislature and  
15 the governor outlining a schedule, not to exceed five years, for  
16 transitioning to the exclusive use of commercial salmon fishing gear  
17 designed to minimize the lethality of commercial salmon fishing to  
18 nontarget, endangered, and depressed wild stocks of salmonids and other  
19 species through the avoidance of or live capture, sorting, and release  
20 of these species with minimal mortality.

21 **Sec. 4.** RCW 77.50.050 and 1998 c 190 s 79 are each amended to read  
22 as follows:

23 The ~~((commission shall not authorize))~~ use of reef net fishing gear  
24 ~~((except in))~~ may be authorized by the commission in the reef net areas  
25 described in this section. The commission may also authorize the use  
26 of reef net fishing gear in other areas if the gear is designed to  
27 minimize the lethality of commercial salmon fishing on endangered and  
28 depressed wild salmonids and nontarget species in mixed stock  
29 fisheries.

30 (1) Point Roberts reef net fishing area includes those waters  
31 within 250 feet on each side of a line projected 129° true from a point  
32 at longitude 123° 01' 15" W. latitude 48° 58' 38" N. to a point one  
33 mile distant, as such description is shown upon the United States Coast  
34 and Geodetic Survey map numbered 6300, published September, 1941, in  
35 Washington, D.C., eleventh edition.

36 (2) Cherry Point reef net fishing area includes those waters inland  
37 and inside the 10-fathom line between lines projected 205° true from

1 points on the mainland at longitude 122° 44' 54" latitude 48° 51' 48"  
2 and longitude 122° 44' 18" latitude 48° 51' 33", (~~(a-[as])~~) as such  
3 descriptions are shown upon the United States Coast and Geodetic Survey  
4 map numbered 6380, published March, 1947, in Washington, D.C., eighth  
5 edition.

6 (3) Lummi Island reef net fishing area includes those waters inland  
7 and inside a line projected from Village Point 208° true to a point 900  
8 yards distant, thence 129° true to the point of intersection with a  
9 line projected 259° true from the shore of Lummi Island 122° 40' 42"  
10 latitude 48° 41' 32", as such descriptions are shown upon the United  
11 States Coast and Geodetic Survey map numbered 6380, published March,  
12 1947, in Washington, D.C., eighth edition, revised 11-25-57, save and  
13 except that there shall be excluded therefrom all waters lying inside  
14 of a line projected 259° true from a point at 122° 40' 42" latitude 48°  
15 41' 32" to a point 300 yards distant from high tide, thence in a  
16 northerly direction to the United States Coast and Geodetic Survey  
17 reference mark number 2, 1941-1950, located on that point on Lummi  
18 Island known as Lovers Point, as such descriptions are shown upon the  
19 United States Coast and Geodetic Survey map number 6380 as aforesaid.  
20 The term "Village Point" as used herein shall be construed to mean a  
21 point of location on Village Point, Lummi Island, at the mean high tide  
22 line on a true bearing of 43° 53' a distance of 457 feet to the center  
23 of the chimney of a wood frame house on the east side of the county  
24 road. Said chimney and house being described as Village Point Chimney  
25 on page 612 of the United States Coast and Geodetic Survey list of  
26 geographic positions No. G-5455, Rosario Strait.

27 (4) Sinclair Island reef net fishing area includes those waters  
28 inland and inside a line projected from the northern point of Sinclair  
29 Island to Boulder reef, thence 200° true to the northwesterly point of  
30 Sinclair Island, as such descriptions are shown upon the United States  
31 Coast and Geodetic Survey map numbered 6380, published March, 1947, in  
32 Washington, D.C., eighth edition.

33 (5) Flat Point reef net fishing area includes those waters within  
34 a radius of 175 feet of a point off Lopez Island located at longitude  
35 122° 55' 24" latitude 48° 32' 33", as such description is shown upon  
36 the United States Coast and Geodetic Survey map numbered 6380,  
37 published March, 1947, in Washington, D.C., eighth edition.

1 (6) Lopez Island reef net fishing area includes those waters within  
2 400 yards of shore between lines projected true west from points on the  
3 shore of Lopez Island at longitude 122° 55' 04" latitude 48° 31' 59"  
4 and longitude 122° 55' 54" latitude 48° 30' 55", as such descriptions  
5 are shown upon the United States Coast and Geodetic Survey map numbered  
6 6380, published March, 1947, in Washington, D.C., eighth edition.

7 (7) Iceberg Point reef net fishing area includes those waters  
8 inland and inside a line projected from Davis Point on Lopez Island to  
9 the west point of Long Island, thence to the southern point of Hall  
10 Island, thence to the eastern point at the entrance to Jones Bay, and  
11 thence to the southern point at the entrance to Mackaye Harbor on Lopez  
12 Island; and those waters inland and inside a line projected 320° from  
13 Iceberg Point light on Lopez Island, a distance of 400 feet, thence  
14 easterly to the point on Lopez Island at longitude 122° 53' 00"  
15 latitude 48° 25' 39", as such descriptions are shown upon the United  
16 States Coast and Geodetic Survey map numbered 6380, published March,  
17 1947, in Washington, D.C., eighth edition.

18 (8) Aleck Bay reef net fishing area includes those waters inland  
19 and inside a line projected from the southwestern point at the entrance  
20 to Aleck Bay on Lopez Island at longitude 122° 51' 11" latitude 48° 25'  
21 14" southeasterly 800 yards to the submerged rock shown on U.S.G.S. map  
22 number 6380, thence northerly to the cove on Lopez Island at longitude  
23 122° 50' 49" latitude 48° 25' 42", as such descriptions are shown upon  
24 the United States Coast and Geodetic Survey map numbered 6380,  
25 published March, 1947, in Washington, D.C., eighth edition.

26 (9) Shaw Island reef net fishing area number 1 includes those  
27 waters within 300 yards of shore between lines projected true south  
28 from points on Shaw Island at longitude 122° 56' 14" latitude 48° 33'  
29 28" and longitude 122° 57' 29" latitude 48° 32' 58", as such  
30 descriptions are shown upon the United States Coast and Geodetic Survey  
31 map numbered 6380, published March, 1947, in Washington, D.C., eighth  
32 edition.

33 (10) Shaw Island reef net fishing area number 2 includes those  
34 waters inland and inside a line projected from Point George on Shaw  
35 Island to the westerly point of Neck Point on Shaw Island, as such  
36 description is shown upon the United States Coast and Geodetic Survey  
37 map numbered 6380, published March, 1947, in Washington, D.C., eighth  
38 edition.

1 (11) Stuart Island reef net fishing area number 1 includes those  
2 waters within 600 feet of the shore of Stuart Island between lines  
3 projected true east from points at longitude 123° 10' 47" latitude 48°  
4 39' 47" and longitude 123° 10' 47" latitude 48° 39' 33", as such  
5 descriptions are shown upon the United States Coast and Geodetic Survey  
6 map numbered 6380, published March, 1947, in Washington, D.C., eighth  
7 edition.

8 (12) Stuart Island reef net fishing area number 2 includes those  
9 waters within 250 feet of Gossip Island, also known as Happy Island, as  
10 such description is shown upon the United States Coast and Geodetic  
11 Survey map numbered 6380, published March, 1947, in Washington, D.C.,  
12 eighth edition.

13 (13) Johns Island reef net fishing area includes those waters  
14 inland and inside a line projected from the eastern point of Johns  
15 Island to the northwestern point of Little Cactus Island, thence  
16 northwesterly to a point on Johns Island at longitude 123° 09' 24"  
17 latitude 48° 39' 59", as such descriptions are shown upon the United  
18 States Coast and Geodetic Survey map numbered 6380, published March,  
19 1947, in Washington, D.C., eighth edition.

20 (14) Battleship Island reef net fishing area includes those waters  
21 lying within 350 feet of Battleship Island, as such description is  
22 shown upon the United States Coast and Geodetic Survey map numbered  
23 6380, published March, 1947, in Washington, D.C., eighth edition.

24 (15) Open Bay reef net fishing area includes those waters lying  
25 within 150 feet of shore between lines projected true east from a point  
26 on Henry Island at longitude 123° 11' 34 1/2" latitude 48° 35' 27 1/2"  
27 at a point 250 feet south, as such descriptions are shown upon the  
28 United States Coast and Geodetic Survey map numbered 6380, published  
29 March, 1947, in Washington, D.C., eighth edition.

30 (16) Mitchell Reef net fishing area includes those waters within a  
31 line beginning at the rock shown on U.S.G.S. map number 6380 at  
32 longitude 123° 10' 56" latitude 48° 34' 49 1/2", and projected 50 feet  
33 northwesterly, thence southwesterly 250 feet, thence southeasterly 300  
34 feet, thence northeasterly 250 feet, thence to the point of beginning,  
35 as such descriptions are shown upon the United States Coast and  
36 Geodetic Survey map numbered 6380, published March, 1947, in  
37 Washington, D.C., eighth edition.

1 (17) Smugglers Cove reef fishing area includes those waters within  
2 200 feet of shore between lines projected true west from points on the  
3 shore of San Juan Island at longitude 123° 10' 29" latitude 48° 33' 50"  
4 and longitude 123° 10' 31" latitude 48° 33' 45", as such descriptions  
5 are shown upon the United States Coast and Geodetic Survey map numbered  
6 6380, published March, 1947, in Washington, D.C., eighth edition.

7 (18) Andrews Bay reef net fishing area includes those waters lying  
8 within 300 feet of the shore of San Juan Island between a line  
9 projected true south from a point at the northern entrance of Andrews  
10 Bay at longitude 123° 09' 53 1/2" latitude 48° 33' 00" and the cable  
11 crossing sign in Andrews Bay, at longitude 123° 09' 45" latitude 48°  
12 33' 04", as such descriptions are shown upon the United States Coast  
13 and Geodetic Survey map numbered 6380, published March, 1947, in  
14 Washington, D.C., eighth edition.

15 (19) Orcas Island reef net fishing area includes those waters  
16 inland and inside a line projected true west a distance of 1,000 yards  
17 from the shore of Orcas Island at longitude 122° 57' 40" latitude 48°  
18 41' 06" thence northeasterly to a point 500 feet true west of Point  
19 Doughty, then true east to Point Doughty, as such descriptions are  
20 shown upon the United States Coast and Geodetic Survey map numbered  
21 6380, published March, 1947, in Washington, D.C., eighth edition.

22 NEW SECTION. **Sec. 5.** The following acts or parts of acts are each  
23 repealed:

24 (1) RCW 77.50.110 (Commercial salmon fishing--Unauthorized gear)  
25 and 1998 c 190 s 84, 1996 c 267 s 24, 1983 1st ex.s. c 46 s 69, & 1969  
26 ex.s. c 23 s 1; and

27 (2) RCW 77.50.120 (Maintaining consistent salmon harvest levels)  
28 and 2001 c 163 s 1.

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