

SSB 5201 - H COMM AMD

By Committee on General Government Appropriations & Oversight

NOT CONSIDERED 04/22/2011

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 77.15 RCW
4 to read as follows:

5 (1) It is unlawful to willfully start a fire on lands owned or
6 controlled by the department that are not forest lands as that term is
7 defined in RCW 76.04.005.

8 (2) Nothing in this section prohibits the use of campfires as
9 defined by rule of the commission, fires in stoves, lanterns and
10 barbeques, and fire used by the department or other federal, state, or
11 local agencies for habitat management or firefighting efforts.

12 (3) A violation of this section is a gross misdemeanor.

13 NEW SECTION. **Sec. 2.** A new section is added to chapter 77.12 RCW
14 to read as follows:

15 (1) Any person whose negligence is responsible for the starting of
16 a fire on land owned or controlled by the department or whose
17 negligence is responsible for starting or allowing an existing fire to
18 spread onto land owned or controlled by the department is liable for
19 any reasonable expenses incurred by the state, a municipality, or any
20 fire protection agency of the United States.

21 (2) The department or agency incurring any reasonable expenses has
22 a lien for the same against any property of the person, firm, or
23 corporation liable under subsection (1) of this section by filing a
24 claim of lien naming the person, firm, or corporation describing the
25 property against which the lien is claimed, specifying the amount
26 expended on the lands on which the firefighting took place and the
27 period during which the reasonable expenses were incurred, and signing
28 the claim with a post office address. No claim of lien is valid unless
29 filed, with the county auditor of the county in which the property

1 sought to be charged is located, within a period of one hundred twenty
2 days after the reasonable expenses of the claimant are incurred. The
3 lien may be foreclosed in the same manner as a mechanic's lien is
4 foreclosed under chapter 60.04 RCW.

5 (3) For the purposes of this section:

6 (a) "Reasonable expenses" includes the costs associated with
7 fighting the fire, together with the costs of investigation and
8 litigation including reasonable attorneys' fees and court costs.

9 (b) "Land owned or controlled by the department" means lands that
10 are not included within the definition of forest land as that term is
11 defined in RCW 76.04.005.

12 (4) This section does not apply in any case where recovery is
13 provided under RCW 76.04.495.

14 **Sec. 3.** RCW 77.15.650 and 2008 c 10 s 2 are each amended to read
15 as follows:

16 (1) A person is guilty of unlawful purchase or use of a license in
17 the second degree if the person buys, holds, uses, displays, transfers,
18 or obtains any license, tag, permit, or approval required by this title
19 and the person:

20 (a) Uses false information to buy, hold, use, display, or obtain a
21 license, permit, tag, or approval;

22 (b) Acquires, holds, or buys in excess of one license, permit, or
23 tag for a license year if only one license, permit, or tag is allowed
24 per license year;

25 (c) Except as authorized under RCW 77.32.565, uses or displays a
26 license, permit, tag, or approval that was issued to another person;

27 (d) Except as authorized under RCW 77.32.565, permits or allows a
28 license, permit, tag, or approval to be used or displayed by another
29 person not named on the license, permit, tag, or approval;

30 (e) Acquires or holds a license while privileges for the license
31 are revoked or suspended;

32 (f) Holds a resident license from another state or country. This
33 subsection (1)(f) only applies if the Washington license, tag, permit,
34 or approval that the person buys, holds, uses, displays, transfers, or
35 obtains is a resident license. It is prima facie evidence of a
36 violation of this section if any person who has a resident license from
37 another state or country purchases a resident license, tag, permit, or

1 approval in Washington. This subsection does not apply to individuals
2 who meet the definition of "resident" in section 8 (2) and (3) of this
3 act.

4 (2) A person is guilty of unlawful purchase or use of a license in
5 the first degree if the person commits the act described by subsection
6 (1) of this section and the person was acting with intent that the
7 license, permit, tag, or approval be used for any commercial purpose.
8 A person is presumed to be acting with such intent if the violation
9 involved obtaining, holding, displaying, or using a license or permit
10 for participation in any commercial fishery issued under this title or
11 a license authorizing fish or wildlife buying, trafficking, or
12 wholesaling.

13 (3)(a) Unlawful purchase or use of a license in the second degree
14 is a gross misdemeanor. Upon conviction, the department shall revoke
15 any unlawfully used or held licenses and order a two-year suspension of
16 participation in the activities for which the person unlawfully
17 obtained, held, or used a license, permit, tag, or approval.

18 (b) Unlawful purchase or use of a license in the first degree is a
19 class C felony. Upon conviction, the department shall revoke any
20 unlawfully used or held licenses and order a five-year suspension of
21 participation in any activities for which the person unlawfully
22 obtained, held, or used a license, permit, tag, or approval.

23 (4) For purposes of this section, a person "uses" a license,
24 permit, tag, or approval if the person engages in any activity
25 authorized by the license, permit, tag, or approval held or possessed
26 by the person. Such uses include but are not limited to fishing,
27 hunting, taking, trapping, delivery or landing fish or wildlife, and
28 selling, buying, or wholesaling of fish or wildlife.

29 (5) Any license obtained in violation of this section is void upon
30 issuance and is of no legal effect.

31 NEW SECTION. Sec. 4. A new section is added to chapter 77.15 RCW
32 to read as follows:

33 (1) A taxidermist, fur dealer, or wildlife meat cutter is guilty of
34 failing to maintain business records and report if the person acts for
35 commercial purposes, processes, holds, or stores wildlife; and:

36 (a) Fails to maintain records as required under subsections (2)
37 through (5) of this section; or

1 (b) Violates any rule of the department by failing to report
2 information from these records.

3 (2) A taxidermist, fur dealer, or wildlife meat cutter who
4 processes, holds, or stores wildlife must keep a record of each
5 wildlife carcass or part received.

6 (3) All records of receipt of wildlife must be maintained at the
7 location where the wildlife is being processed, held, or stored, or at
8 the principal place of business of the wildlife meat cutter,
9 taxidermist, or fur dealer.

10 (4) Records of the receipt of wildlife that are required to be kept
11 under this section must be in the English language and be maintained
12 for three years from the date the wildlife is processed, held, or
13 stored.

14 (5) The form and content of records maintained by taxidermists, fur
15 dealers, and wildlife meat cutters who process, hold, or store wildlife
16 must be determined by the commission by rule. However, the records
17 must include:

18 (a) Either the unique license number issued by the department to
19 the person delivering the wildlife or wildlife parts or the name,
20 address, and phone number of the person or company from whom the
21 wildlife or wildlife parts were received;

22 (b) The date of receipt; and

23 (c) The number and species of wildlife carcasses or parts received.

24 (6) Taxidermists, fur dealers, and wildlife meat cutters who fail
25 to maintain business records in accordance with this section or fail to
26 report information from the records as required by rule of the
27 department are guilty of a misdemeanor.

28 **Sec. 5.** RCW 77.15.110 and 2002 c 127 s 2 are each amended to read
29 as follows:

30 (1) For purposes of this chapter, a person acts for commercial
31 purposes if the person engages in conduct that relates to commerce in
32 fish, seaweed, shellfish, or wildlife or any parts thereof. Commercial
33 conduct may include taking, delivering, selling, buying, or trading
34 fish, seaweed, shellfish, or wildlife where there is present or future
35 exchange of money, goods, or any valuable consideration. Evidence that
36 a person acts for commercial purposes includes, but is not limited to,
37 the following conduct:

1 (a) Using gear typical of that used in commercial fisheries;

2 (b) Exceeding the bag or possession limits for personal use by
3 taking or possessing more than three times the amount of fish, seaweed,
4 shellfish, or wildlife allowed;

5 (c) Delivering or attempting to deliver fish, seaweed, shellfish,
6 or wildlife to a person who sells or resells fish, seaweed, shellfish,
7 or wildlife including any licensed or unlicensed wholesaler;

8 (d) Taking fish or shellfish using a vessel designated on a
9 commercial fishery license or using gear not authorized in a personal
10 use fishery;

11 (e) Using a commercial fishery license;

12 (f) Selling or dealing in raw furs for a fee or in exchange for
13 goods or services; ((~~or~~))

14 (g) Performing taxidermy service on fish, shellfish, or wildlife
15 belonging to another person for a fee or receipt of goods or services;
16 or

17 (h) Packs, cuts, processes, or stores the meat of wildlife for
18 consumption, for a fee or in exchange for goods or services.

19 (2) For purposes of this chapter, the value of any fish, seaweed,
20 shellfish, or wildlife may be proved based on evidence of legal or
21 illegal sales involving the person charged or any other person, of
22 offers to sell or solicitation of offers to sell by the person charged
23 or by any other person, or of any market price for the fish, seaweed,
24 shellfish, or wildlife including market price for farm-raised game
25 animals. The value assigned to specific fish, seaweed, shellfish, or
26 wildlife by RCW 77.15.420 may be presumed to be the value of such fish,
27 seaweed, shellfish, or wildlife. It is not relevant to proof of value
28 that the person charged misrepresented that the fish, seaweed,
29 shellfish, or wildlife was taken in compliance with law if the fish,
30 seaweed, shellfish, or wildlife was unlawfully taken and had no lawful
31 market value.

32 **Sec. 6.** RCW 77.15.280 and 2008 c 244 s 2 are each amended to read
33 as follows:

34 (1) A person is guilty of violating rules requiring reporting of
35 fish or wildlife harvest if the person:

36 (a) Fails to make a harvest log report of a commercial fish or

1 shellfish catch in violation of any rule of the commission or the
2 director;

3 (b) Fails to maintain a trapper's report (~~(or taxidermist ledger)~~)
4 in violation of any rule of the commission or the director;

5 (c) Fails to submit any portion of a big game animal for a required
6 inspection required by rule of the commission or the director; or

7 (d) Fails to return a catch record card to the department as
8 required by rule of the commission or director, except for catch record
9 cards officially endorsed for Puget Sound Dungeness crab.

10 (2) Violating rules requiring reporting of fish or wildlife harvest
11 is a misdemeanor.

12 **Sec. 7.** RCW 77.08.010 and 2009 c 333 s 12 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 (3), (~~((28), (40), (44), (58), and (59))~~)
23 (26), (38), (42), (56), and (57) of this section, aquatic noxious weeds
24 as defined under RCW 17.26.020(5)(c), and aquatic nuisance species as
25 defined under RCW 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) "Contraband" means any property that is unlawful to produce or
15 possess.

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

19 (13) "Department" means the department of fish and wildlife.

20 (14) "Director" means the director of fish and wildlife.

21 (15) "Endangered species" means wildlife designated by the
22 commission as seriously threatened with extinction.

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

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

37 ((18) ~~"Fish and wildlife officer" means a person appointed and~~
38 ~~commissioned by the director, with authority to enforce this title and~~

1 rules adopted pursuant to this title, and other statutes as prescribed
2 by the legislature. Fish and wildlife officer includes a person
3 commissioned before June 11, 1998, as a wildlife agent or a fisheries
4 patrol officer.

5 ~~((19))~~ (17) "Fish broker" means a person whose business it is to
6 bring a seller of fish and shellfish and a purchaser of those fish and
7 shellfish together.

8 ~~((20))~~ (18) "Fishery" means the taking of one or more particular
9 species of fish or shellfish with particular gear in a particular
10 geographical area.

11 ~~((21))~~ (19) "Freshwater" means all waters not defined as
12 saltwater including, but not limited to, rivers upstream of the river
13 mouth, lakes, ponds, and reservoirs.

14 ~~((22))~~ (20) "Fur-bearing animals" means game animals that shall
15 not be trapped except as authorized by the commission.

16 ~~((23))~~ (21) "Game animals" means wild animals that shall not be
17 hunted except as authorized by the commission.

18 ~~((24))~~ (22) "Game birds" means wild birds that shall not be
19 hunted except as authorized by the commission.

20 ~~((25))~~ (23) "Game farm" means property on which wildlife is held
21 ~~((or)),~~ confined, propagated, hatched, fed, or otherwise raised for
22 commercial purposes, trade, or gift. The term "game farm" does not
23 include publicly owned facilities.

24 ~~((26))~~ (24) "Game reserve" means a closed area where hunting for
25 all wild animals and wild birds is prohibited.

26 ~~((27))~~ (25) "Illegal items" means those items unlawful to be
27 possessed.

28 ~~((28))~~ (26) "Invasive species" means a plant species or a
29 nonnative animal species that either:

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

32 (b) Threatens or may threaten natural resources or their use in the
33 state;

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

36 (d) Threatens or harms human health.

37 ~~((29))~~ (27) "License year" means the period of time for which a

1 recreational license is valid. The license year begins April 1st, and
2 ends March 31st.

3 ~~((+30))~~ (28) "Limited-entry license" means a license subject to a
4 license limitation program established in chapter 77.70 RCW.

5 ~~((+31))~~ (29) "Money" means all currency, script, personal checks,
6 money orders, or other negotiable instruments.

7 ~~((+32))~~ (30) "Nonresident" means a person who has not fulfilled
8 the qualifications of a resident.

9 ~~((+33))~~ (31) "Offshore waters" means marine waters of the Pacific
10 Ocean outside the territorial boundaries of the state, including the
11 marine waters of other states and countries.

12 ~~((+34))~~ (32) "Open season" means those times, manners of taking,
13 and places or waters established by rule of the commission for the
14 lawful hunting, fishing, taking, or possession of game animals, game
15 birds, game fish, food fish, or shellfish that conform to the special
16 restrictions or physical descriptions established by rule of the
17 commission or that have otherwise been deemed legal to hunt, fish,
18 take, harvest, or possess by rule of the commission. "Open season"
19 includes the first and last days of the established time.

20 ~~((+35))~~ (33) "Owner" means the person in whom is vested the
21 ownership dominion, or title of the property.

22 ~~((+36))~~ (34) "Person" means and includes an individual; a
23 corporation; a public or private entity or organization; a local,
24 state, or federal agency; all business organizations, including
25 corporations and partnerships; or a group of two or more individuals
26 acting with a common purpose whether acting in an individual,
27 representative, or official capacity.

28 ~~((+37))~~ (35) "Personal property" or "property" includes both
29 corporeal and incorporeal personal property and includes, among other
30 property, contraband and money.

31 ~~((+38))~~ (36) "Personal use" means for the private use of the
32 individual taking the fish or shellfish and not for sale or barter.

33 ~~((+39))~~ (37) "Predatory birds" means wild birds that may be hunted
34 throughout the year as authorized by the commission.

35 ~~((+40))~~ (38) "Prohibited aquatic animal species" means an invasive
36 species of the animal kingdom that has been classified as a prohibited
37 aquatic animal species by the commission.

1 ((+41+)) (39) "Protected wildlife" means wildlife designated by the
2 commission that shall not be hunted or fished.

3 ((+42+)) (40) "Raffle" means an activity in which tickets bearing
4 an individual number are sold for not more than twenty-five dollars
5 each and in which a permit or permits are awarded to hunt or for access
6 to hunt big game animals or wild turkeys on the basis of a drawing from
7 the tickets by the person or persons conducting the raffle.

8 ((+43+)) (41) "Recreational and commercial watercraft" includes the
9 boat, as well as equipment used to transport the boat, and any
10 auxiliary equipment such as attached or detached outboard motors.

11 ((+44+)) (42) "Regulated aquatic animal species" means a
12 potentially invasive species of the animal kingdom that has been
13 classified as a regulated aquatic animal species by the commission.

14 ((+45+)) (43) "Resident" ~~((means:~~
15 ~~(a) A person who has maintained a permanent place of abode within~~
16 ~~the state for at least ninety days immediately preceding an application~~
17 ~~for a license, has established by formal evidence an intent to continue~~
18 ~~residing within the state, and who is not licensed to hunt or fish as~~
19 ~~a resident in another state; and~~

20 ~~(b) A person age eighteen or younger who does not qualify as a~~
21 ~~resident under (a) of this subsection, but who has a parent that~~
22 ~~qualifies as a resident under (a) of this subsection)) has the same~~
23 ~~meaning as defined in section 8 of this act.~~

24 ((+46+)) (44) "Retail-eligible species" means commercially
25 harvested salmon, crab, and sturgeon.

26 ((+47+)) (45) "Saltwater" means those marine waters seaward of
27 river mouths.

28 ((+48+)) (46) "Seaweed" means marine aquatic plant species that are
29 dependent upon the marine aquatic or tidal environment, and exist in
30 either an attached or free floating form, and includes but is not
31 limited to marine aquatic plants in the classes Chlorophyta,
32 Phaeophyta, and Rhodophyta.

33 ((+49+)) (47) "Senior" means a person seventy years old or older.

34 ((+50+)) (48) "Shellfish" means those species of marine and
35 freshwater invertebrates that have been classified and that shall not
36 be taken except as authorized by rule of the commission. The term
37 "shellfish" includes all stages of development and the bodily parts of
38 shellfish species.

1 ((+51)) (49) "State waters" means all marine waters and fresh
2 waters within ordinary high water lines and within the territorial
3 boundaries of the state.

4 ((+52)) (50) "To fish," "to harvest," and "to take," and their
5 derivatives means an effort to kill, injure, harass, or catch a fish or
6 shellfish.

7 ((+53)) (51) "To hunt" and its derivatives means an effort to
8 kill, injure, capture, or harass a wild animal or wild bird.

9 ((+54)) (52) "To process" and its derivatives mean preparing or
10 preserving fish, wildlife, or shellfish.

11 ((+55)) (53) "To trap" and its derivatives means a method of
12 hunting using devices to capture wild animals or wild birds.

13 ((+56)) (54) "Trafficking" means offering, attempting to engage,
14 or engaging in sale, barter, or purchase of fish, shellfish, wildlife,
15 or deleterious exotic wildlife.

16 ((+57)) (55) "Unclaimed" means that no owner of the property has
17 been identified or has requested, in writing, the release of the
18 property to themselves nor has the owner of the property designated an
19 individual to receive the property or paid the required postage to
20 effect delivery of the property.

21 ((+58)) (56) "Unlisted aquatic animal species" means a nonnative
22 animal species that has not been classified as a prohibited aquatic
23 animal species, a regulated aquatic animal species, or an unregulated
24 aquatic animal species by the commission.

25 ((+59)) (57) "Unregulated aquatic animal species" means a
26 nonnative animal species that has been classified as an unregulated
27 aquatic animal species by the commission.

28 ((+60)) (58) "Wholesale fish dealer" means a person who, acting
29 for commercial purposes, takes possession or ownership of fish or
30 shellfish and sells, barter, or exchanges or attempts to sell, barter,
31 or exchange fish or shellfish that have been landed into the state of
32 Washington or entered the state of Washington in interstate or foreign
33 commerce.

34 ((+61)) (59) "Wild animals" means those species of the class
35 Mammalia whose members exist in Washington in a wild state (~~and the~~
36 ~~species Rana catesbeiana (bullfrog)~~). The term "wild animal" does not
37 include feral domestic mammals or old world rats and mice of the family
38 Muridae of the order Rodentia.

1 (~~(+62)~~) (60) "Wild birds" means those species of the class Aves
2 whose members exist in Washington in a wild state.

3 (~~(+63)~~) (61) "Wildlife" means all species of the animal kingdom
4 whose members exist in Washington in a wild state. This includes but
5 is not limited to mammals, birds, reptiles, amphibians, fish, and
6 invertebrates. The term "wildlife" does not include feral domestic
7 mammals, old world rats and mice of the family Muridae of the order
8 Rodentia, or those fish, shellfish, and marine invertebrates classified
9 as food fish or shellfish by the director. The term "wildlife"
10 includes all stages of development and the bodily parts of wildlife
11 members.

12 (~~(+64)~~) (62) "Youth" means a person fifteen years old for fishing
13 and under sixteen years old for hunting.

14 (63) "Biological science review process" means the process
15 established in RCW 77.04.080 to provide an opportunity for scientific
16 review of department and commission decisions.

17 (64) "Fur dealer" means a person who purchases, receives, or
18 resells raw furs for commercial purposes.

19 (65) "Natural person" means a human being.

20 (66) "Taxidermist" means a person who, for commercial purposes,
21 creates lifelike representations of fish and wildlife using fish and
22 wildlife parts and various supporting structures.

23 (67) "Wildlife meat cutter" means a person who packs, cuts,
24 processes, or stores wildlife for consumption for another for
25 commercial purposes.

26 NEW SECTION. Sec. 8. A new section is added to chapter 77.08 RCW
27 to read as follows:

28 For the purposes of this title or rules adopted under this title,
29 "resident" means:

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

36 (a) For purposes of this section, "permanent place of abode" means
37 a residence in this state that a person maintains for personal use.

1 (b) A natural person can demonstrate that he or she has maintained
2 a permanent place of abode in Washington by showing that he or she:

3 (i) Uses a Washington state address for federal income tax or state
4 tax purposes;

5 (ii) Designates this state as his or her residence for obtaining
6 eligibility to hold a public office or for judicial actions;

7 (iii) Is a registered voter in the state of Washington; or

8 (iv) Is a custodial parent with a child attending prekindergarten,
9 kindergarten, elementary school, middle school, or high school in this
10 state.

11 (c) A natural person can demonstrate the intent to continue
12 residing within the state by showing that he or she:

13 (i) Has a valid Washington state driver's license; or

14 (ii) Has a valid Washington state identification card, if he or she
15 is not eligible for a Washington state driver's license; and

16 (iii) Has registered his or her vehicle or vehicles in Washington
17 state.

18 (2) The spouse of a member of the United States armed forces if the
19 member qualifies as a resident under subsection (1), (3), or (4) of
20 this section, or a natural person age eighteen or younger who does not
21 qualify as a resident under subsection (1) of this section, but who has
22 a parent or legal guardian who qualifies as a resident under subsection
23 (1), (3), or (4) of this section.

24 (3) A member of the United States armed forces temporarily
25 stationed in Washington state on predeployment orders. A copy of the
26 person's military orders is required to meet this condition.

27 (4) A member of the United States armed forces who is permanently
28 stationed in Washington state or who designates Washington state on
29 their military "state of legal residence certificate" or enlistment or
30 re-enlistment documents, and who does not have a license to hunt or
31 fish as a resident in another state or country. A copy of the person's
32 "state of legal residence certificate" or enlistment or re-enlistment
33 documents is required to meet the conditions of this subsection.

34 **Sec. 9.** RCW 77.12.020 and 2002 c 281 s 3 are each amended to read
35 as follows:

36 (1) The director shall investigate the habits and distribution of
37 the various species of wildlife native to or adaptable to the habitats

1 of the state. The commission shall determine whether a species should
2 be managed by the department and, if so, classify it under this
3 section.

4 (2) The commission may classify by rule wild animals as game
5 animals and game animals as fur-bearing animals.

6 (3) The commission may classify by rule wild birds as game birds or
7 predatory birds. All wild birds not otherwise classified are protected
8 wildlife.

9 (4) In addition to those species listed in RCW 77.08.020, the
10 commission may classify by rule as game fish other species of the class
11 Osteichthyes that are commonly found in fresh water except those
12 classified as food fish by the director.

13 (5) The director may recommend to the commission that a species of
14 wildlife should not be hunted or fished. The commission may designate
15 species of wildlife as protected.

16 (6) If the director determines that a species of wildlife is
17 seriously threatened with extinction in the state of Washington, the
18 director may request its designation as an endangered species. The
19 commission may designate an endangered species.

20 (7) If the common name of a species or the common name of a class
21 of species is used in this title, the commission has the authority to
22 identify by rule, for the purposes of administering this title, the
23 taxonomical name or names of the species associated with the common
24 name or the species that comprise the class identified by its common
25 name.

26 (8) If the director determines that a species of the animal
27 kingdom, not native to Washington, is dangerous to the environment or
28 wildlife of the state, the director may request its designation as
29 deleterious exotic wildlife. The commission may designate deleterious
30 exotic wildlife.

31 ((+8)) (9) Upon recommendation by the director, the commission may
32 classify nonnative aquatic animal species according to the following
33 categories:

34 (a) Prohibited aquatic animal species: These species are
35 considered by the commission to have a high risk of becoming an
36 invasive species and may not be possessed, imported, purchased, sold,
37 propagated, transported, or released into state waters except as
38 provided in RCW 77.15.253;

1 (b) Regulated aquatic animal species: These species are considered
2 by the commission to have some beneficial use along with a moderate,
3 but manageable risk of becoming an invasive species, and may not be
4 released into state waters, except as provided in RCW 77.15.253. The
5 commission shall classify the following commercial aquaculture species
6 as regulated aquatic animal species, and allow their release into state
7 waters pursuant to rule of the commission: Pacific oyster (*Crassostrea*
8 *gigas*), kumamoto oyster (*Crassostrea sikamea*), European flat oyster
9 (*Ostrea edulis*), eastern oyster (*Crassostrea virginica*), manila clam
10 (*Tapes philippinarum*), blue mussel (*Mytilus galloprovincialis*), and
11 suminoe oyster (*Crassostrea ariankensis*);

12 (c) Unregulated aquatic animal species: These species are
13 considered by the commission as having some beneficial use along with
14 a low risk of becoming an invasive species, and are not subject to
15 regulation under this title;

16 (d) Unlisted aquatic animal species: These species are not
17 designated as a prohibited aquatic animal species, regulated aquatic
18 animal species, or unregulated aquatic animal species by the
19 commission, and may not be released into state waters. Upon request,
20 the commission may determine the appropriate category for an unlisted
21 aquatic animal species and classify the species accordingly;

22 (e) This subsection ~~((+8))~~ (9) does not apply to the
23 transportation or release of nonnative aquatic animal species by
24 ballast water or ballast water discharge.

25 ~~((+9))~~ (10) Upon recommendation by the director, the commission
26 may develop a work plan to eradicate native aquatic species that
27 threaten human health. Priority shall be given to water bodies that
28 the department of health has classified as representing a threat to
29 human health based on the presence of a native aquatic species.

30 **Sec. 10.** RCW 77.65.110 and 2001 c 105 s 4 are each amended to read
31 as follows:

32 This section applies to all commercial fishery licenses(~~(, charter~~
33 ~~boat license[s],~~) and delivery licenses.

34 (1) A person designated as an alternate operator must possess an
35 alternate operator license issued under RCW 77.65.130, and be
36 designated on the license prior to engaging in the activities

1 authorized by the license. The holder of the commercial fishery
2 license(~~(, charter boat license,)~~) or delivery license may designate up
3 to two alternate operators for the license, except:

4 (a) Whiting--Puget Sound fishery licensees may not designate
5 alternate operators;

6 (b) Emergency salmon delivery licensees may not designate alternate
7 operators;

8 (c) Shrimp pot--Puget Sound fishery licensees may designate no more
9 than one alternate operator at a time; and

10 (d) Shrimp trawl--Puget Sound fishery licensees may designate no
11 more than one alternate operator at a time.

12 (2) The fee to change the alternate operator designation is twenty-
13 two dollars.

14 **Sec. 11.** RCW 77.65.130 and 2005 c 82 s 2 are each amended to read
15 as follows:

16 (1) A person who holds a commercial fishery license or a delivery
17 license may operate the vessel designated on the license. A person who
18 is not the license holder may operate the vessel designated on the
19 license only if:

20 (a) The person is operating a charter boat; or

21 (b) The person holds an alternate operator license issued by the
22 director(~~(+)~~) and (~~(+b)~~) the person is designated as an alternate
23 operator on the underlying commercial fishery license or delivery
24 license under RCW 77.65.110.

25 (2) Only an individual at least sixteen years of age may hold an
26 alternate operator license.

27 (3) No individual may hold more than one alternate operator
28 license. An individual who holds an alternate operator license may be
29 designated as an alternate operator on an unlimited number of
30 commercial fishery licenses or delivery licenses under RCW 77.65.110.

31 (4) An individual who holds two Dungeness crab--Puget Sound fishery
32 licenses may operate the licenses on one vessel if the license holder
33 or alternate operator is on the vessel. The department shall allow a
34 license holder to operate up to one hundred crab pots for each license.

35 (5) Two persons owning separate Dungeness crab--Puget Sound fishery
36 licenses may operate both licenses on one vessel if the license holders
37 or their alternate operators are on the vessel.

1 (6) As used in this section, to "operate" means to control the
2 deployment or removal of fishing gear from state waters while aboard a
3 vessel or to operate a vessel delivering food fish or shellfish taken
4 in offshore waters to a port within the state.

5 **Sec. 12.** RCW 77.15.720 and 2000 c 107 s 258 are each amended to
6 read as follows:

7 (1) If a person (~~((shoots))~~) discharges a firearm, bow, or crossbow
8 while hunting and in a manner that injures, or that a reasonable person
9 would believe is likely to injure, another person or domestic livestock
10 ((while hunting)) or kills domestic livestock, the director shall
11 revoke all of the shooter's hunting licenses and suspend all hunting
12 privileges for three years. If the shooting ((of another person or
13 livestock is the result of criminal negligence or reckless or
14 intentional conduct, then the person's)) kills or results in the death
15 of another person, then the director shall revoke all of the shooter's
16 hunting licenses and suspend all of the person's hunting privileges
17 ((shall be suspended)) for ten years. The suspension shall be
18 continued beyond these periods if damages owed to the victim or
19 livestock owner have not been paid by the suspended person. ((A)) In
20 such a case, no hunting license shall ((not)) be reissued to the
21 suspended person unless authorized by the director.

22 (2) (~~Within twenty days of service of an order suspending~~
23 ~~privileges or imposing conditions under this section or RCW 77.15.710,~~
24 ~~a person may petition for administrative review under chapter 34.05 RCW~~
25 ~~by serving the director with a petition for review. The order is final~~
26 ~~and unappealable if there is no timely petition for administrative~~
27 ~~review.)) A person who is notified of a license revocation under this
28 section may request an appeal hearing under chapter 34.05 RCW.~~

29 (3) The commission may by rule authorize petitions for
30 reinstatement of administrative suspensions and define circumstances
31 under which such a reinstatement will be allowed.

32 **Sec. 13.** RCW 77.15.130 and 1998 c 190 s 14 are each amended to
33 read as follows:

34 (1) A person is guilty of unlawful taking of protected fish or
35 wildlife if:

1 (a) The person hunts, fishes, possesses, or maliciously kills
2 protected fish or wildlife, or the person possesses or maliciously
3 destroys the eggs or nests of protected fish or wildlife, and the
4 taking has not been authorized by rule of the commission; or

5 (b) The person violates any rule of the commission regarding the
6 taking, harming, harassment, possession, or transport of protected fish
7 or wildlife.

8 (2) Unlawful taking of protected fish or wildlife is a misdemeanor.

9 (3) In addition to the penalties set forth in subsections (1) and
10 (2) of this section, if a person is convicted of violating this section
11 and the violation results in the death of wildlife listed in this
12 subsection, the court shall require payment of the following amounts
13 for each animal killed or possessed. This is a criminal wildlife
14 penalty assessment that must be paid to the clerk of the court and
15 distributed each month to the state treasurer for deposit in the fish
16 and wildlife enforcement reward account created in RCW 77.15.425.

17 (a) Ferruginous hawk \$2,000

18 (b) Common loon \$2,000

19 (c) Bald eagle \$2,000

20 (d) Peregrine falcon \$2,000

21 (4) If two or more persons are convicted of illegally possessing
22 wildlife in subsection (1) of this section, the criminal wildlife
23 penalty assessment must be imposed against them jointly and separately.

24 (5)(a) The criminal wildlife penalty assessment must be imposed
25 regardless of and in addition to any sentence, fines, or costs
26 otherwise provided for violating any provision of this section. The
27 criminal wildlife penalty assessment must be included by the court in
28 any pronouncement of sentence and may not be suspended, waived,
29 modified, or deferred in any respect.

30 (b) This subsection may not be construed to abridge or alter
31 alternative rights of action or remedies in equity or under common law
32 or statutory law, criminal or civil.

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

1 (7) The department shall revoke any licenses or tags used in
2 connection with a violation of this section and order the person's
3 privileges to hunt, fish, trap, and obtain licenses under this title to
4 be suspended for three years.

5 **Sec. 14.** RCW 77.15.120 and 2000 c 107 s 236 are each amended to
6 read as follows:

7 (1) A person is guilty of unlawful taking of endangered fish or
8 wildlife in the second degree if the person hunts, fishes, possesses,
9 maliciously harasses or kills fish or wildlife, or maliciously destroys
10 the nests or eggs of fish or wildlife and the fish or wildlife is
11 designated by the commission as endangered, and the taking has not been
12 authorized by rule of the commission.

13 (2) A person is guilty of unlawful taking of endangered fish or
14 wildlife in the first degree if the person has been:

15 (a) Convicted under subsection (1) of this section or convicted of
16 any crime under this title involving the killing, possessing,
17 harassing, or harming of endangered fish or wildlife; and

18 (b) Within five years of the date of the prior conviction the
19 person commits the act described by subsection (1) of this section.

20 (3)(a) Unlawful taking of endangered fish or wildlife in the second
21 degree is a gross misdemeanor.

22 (b) Unlawful taking of endangered fish or wildlife in the first
23 degree is a class C felony. The department shall revoke any licenses
24 or tags used in connection with the crime and order the person's
25 privileges to hunt, fish, trap, or obtain licenses under this title to
26 be suspended for (~~two~~) three years.

27 NEW SECTION. **Sec. 15.** It is the intent of the legislature to
28 prevent predatory wildlife from becoming habituated to humans and to
29 protect the public against the serious health and safety risk posed by
30 predatory wildlife who are drawn into contact with humans and related
31 infrastructure by individuals who feed predatory wildlife negligently
32 or intentionally.

33 NEW SECTION. **Sec. 16.** A new section is added to chapter 77.15 RCW
34 to read as follows:

1 (1) A person may not negligently feed or attempt to feed predatory
2 wildlife or negligently attract predatory wildlife to land or a
3 building.

4 (2) If a fish and wildlife officer or animal control authority as
5 defined in RCW 16.30.010, has probable cause to believe that a person
6 is negligently feeding, attempting to feed, or attracting predatory
7 wildlife to a land or building by placing or locating food, food waste,
8 or another substance in, upon, or about any land or building, and the
9 food, food waste, or other substance poses a risk to the safety of any
10 person because it is attracting or could attract predatory wildlife to
11 the land or building, the officer may issue an infraction under RCW
12 77.15.160.

13 (3) This section does not apply to:

14 (a) A person who is engaging in forest practices in accordance with
15 chapter 76.09 RCW or in hunting or trapping wildlife in accordance with
16 all other applicable provisions of this title or rules of the
17 commission or the director;

18 (b) A person who is engaging in a farming operation that is using
19 generally accepted farming practices;

20 (c) Waste disposal facilities that are operating in accordance with
21 applicable federal, state, and municipal laws;

22 (d) Zoos, lawfully operated wildlife refuges, and state licensed
23 wildlife rehabilitators; or

24 (e) A fish and wildlife officer, or employee or agent of the
25 department operating under the authority of or upon request from an
26 officer, conducting wildlife capture activities to address a threat to
27 human safety or a wildlife interaction as defined in RCW 77.36.010.

28 (4) The definitions in this subsection apply throughout this
29 section unless the context clearly requires otherwise.

30 (a) "Building" means a private domicile or home or public or
31 commercial building.

32 (b) "Predatory wildlife" means bear, cougar, and wolf.

33 (c) "Food, food waste, or other substance" means human and pet
34 food, or other waste or garbage that could attract wildlife.

35 (d) "Negligently feed, attempt to feed, or attract" means to
36 provide, leave, or place in, upon, or about any land or building any
37 food, food waste, or other substance that attracts or could attract
38 predatory wildlife to that land or building, without the awareness that

1 a reasonable person in the same situation would have with regard to the
2 likelihood that such food, food waste, or other substance could attract
3 predatory wildlife to the land or building. The term does not include
4 keeping food, food waste, or other substance in an enclosed garbage
5 receptacle or other enclosed container unless specifically directed by
6 a fish and wildlife officer or animal control authority to secure the
7 container in another manner.

8 NEW SECTION. **Sec. 17.** A new section is added to chapter 77.15 RCW
9 to read as follows:

10 (1) A person may not intentionally feed or attempt to feed
11 predatory wildlife or intentionally attract predatory wildlife to land
12 or a building.

13 (2) A person who intentionally feeds, attempts to feed, or attracts
14 predatory wildlife to land or a building is guilty of a misdemeanor.

15 (3) A person who is issued an infraction under section 16 of this
16 act for negligently feeding, attempting to feed, or attracting
17 predatory wildlife to land or a building, and who fails to contain,
18 move, or remove the food, food waste, or other substance within twenty-
19 four hours of being issued the citation, is guilty of a misdemeanor.

20 (4) This section does not apply to:

21 (a) A person who is engaging in forest practices in accordance with
22 chapter 76.09 RCW or in hunting or trapping wildlife in accordance with
23 all other applicable provisions of this title or rules of the
24 commission or the director;

25 (b) A person who is engaging in a farming operation that is using
26 generally accepted farming practices;

27 (c) Waste disposal facilities that are operating in accordance with
28 applicable federal, state, and municipal laws;

29 (d) Zoos, lawfully operated wildlife refuges, and state licensed
30 wildlife rehabilitators; or

31 (e) A fish and wildlife officer, or employee or agent of the
32 department operating under the authority of or upon request from an
33 officer, conducting wildlife capture activities to address a threat to
34 human safety or a wildlife interaction as defined in RCW 77.36.010.

35 (5) The definitions in this subsection apply throughout this
36 section unless the context clearly requires otherwise.

1 (a) "Building" means a private domicile or home or public or
2 commercial building.

3 (b) "Predatory wildlife" means bear, cougar, and wolf.

4 (c) "Food, food waste, or other substance" means human and pet
5 food, or other waste or garbage that could attract wildlife.

6 (d) "Intentionally feed, attempt to feed, or attract" means to
7 purposefully or knowingly provide, leave, or place in, upon, or about
8 any land or building any food, food waste, or other substance that
9 attracts or could attract predatory wildlife to that land or building.
10 The term does not include keeping food, food waste, or other substance
11 in an enclosed garbage receptacle or other enclosed container unless
12 specifically directed by a fish and wildlife officer or animal control
13 authority to secure the container in another manner.

14 **Sec. 18.** RCW 77.15.160 and 2000 c 107 s 237 are each amended to
15 read as follows:

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

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

21 (2) Fishes for personal use using barbed hooks in violation of any
22 rule; ((or))

23 (3) Negligently feeds, attempts to feed, or attract predatory
24 wildlife in violation of section 16 of this act; or

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

27 **Sec. 19.** RCW 77.95.090 and 2009 c 340 s 4 are each amended to read
28 as follows:

29 The dedicated regional fisheries enhancement group account is
30 created in the custody of the state treasurer. Only the commission or
31 the commission's designee may authorize expenditures from the account.
32 The account is subject to allotment procedures under chapter 43.88 RCW,
33 but no appropriation is required for expenditures.

34 A portion of each recreational fishing license fee shall be used as
35 provided in RCW 77.32.440. A surcharge of one hundred dollars shall be
36 collected on each commercial salmon fishery license, each salmon

1 delivery license, and each salmon charter license sold in the state.
2 All receipts shall be placed in the regional fisheries enhancement
3 group account and shall be used exclusively for regional fisheries
4 enhancement group projects (~~for the purposes of RCW 77.95.110~~) except
5 that the department may use up to twenty-percent of the account funds
6 to provide agency assistance to the groups for professional,
7 administrative and technical assistance and training, project proposal
8 compatibility review, contract management, financial management of
9 regional fisheries enhancement group funds, and provide direction and
10 training in Washington state budgeting and accounting procedures.
11 Except as provided in RCW 77.95.320, funds from the regional fisheries
12 enhancement group account shall not serve as replacement funding for
13 department operated salmon projects that exist on January 1, 1991.

14 All revenue from the department's sale of salmon carcasses and eggs
15 that return to group facilities shall be deposited in the regional
16 fisheries enhancement group account for use by the regional fisheries
17 enhancement group that produced the surplus. The commission shall
18 adopt rules to implement this section pursuant to chapter 34.05 RCW.

19 **Sec. 20.** RCW 69.50.320 and 2003 c 175 s 2 are each amended to read
20 as follows:

21 The department of fish and wildlife may apply to the department of
22 health for registration pursuant to the applicable provisions of this
23 chapter to purchase, possess, and administer controlled substances for
24 use in chemical capture programs and to euthanize injured, sick, or
25 unwanted wildlife. The department of fish and wildlife must not permit
26 a person to administer controlled substances unless the person has
27 demonstrated adequate knowledge of the potential hazards and proper
28 techniques to be used in administering controlled substances.

29 The department of health (~~may~~) must issue a limited registration
30 to carry out the provisions of this section. The board may adopt rules
31 to ensure strict compliance with the provisions of this section. The
32 board, in consultation with the department of fish and wildlife, must
33 by rule add or remove additional controlled substances for use in
34 chemical capture programs. The board shall suspend or revoke
35 registration upon determination that the person administering
36 controlled substances has not demonstrated adequate knowledge as

1 required by this section. This authority is granted in addition to any
2 other power to suspend or revoke registration as provided by law.

3 **Sec. 21.** RCW 77.04.080 and 2000 c 107 s 205 are each amended to
4 read as follows:

5 (1)(a) Persons eligible for appointment as director shall have
6 practical knowledge of the habits and distribution of fish and
7 wildlife. The director shall supervise the administration and
8 operation of the department and perform the duties prescribed by law
9 and delegated by the commission. The director shall carry out the
10 basic goals and objectives prescribed under RCW 77.04.055. The
11 director may appoint and employ necessary personnel. The director may
12 delegate, in writing, to department personnel the duties and powers
13 necessary for efficient operation and administration of the department.

14 (b) Only persons having general knowledge of the fisheries and
15 wildlife resources and of the commercial and recreational fishing
16 industry in this state are eligible for appointment as director. The
17 director shall not have a financial interest in the fishing industry or
18 a directly related industry. The director shall receive the salary
19 fixed by the governor under RCW 43.03.040.

20 (c) The director is the ex officio secretary of the commission and
21 shall attend its meetings and keep a record of its business.

22 (2)(a) The director must ensure that the department cooperates with
23 the biological science review process that is established in this
24 section. The process must include the participation of three doctoral
25 level scientists with recognized professional or academic expertise in
26 fisheries science, wildlife management, wildlife biology, ecosystem
27 sciences, or another natural resources-based science. One participant
28 in the biological science review process must be appointed by the dean
29 of the college of environment at the University of Washington, one must
30 be appointed by the dean of the college of agricultural, human, and
31 natural resource sciences at Washington State University, and the third
32 must be mutually agreed upon and appointed by the other two appointees.
33 If the structure or formal names of the colleges identified in this
34 subsection are changed by their universities, then the appointment
35 authority under this section is the responsibility of the dean of the
36 applicable new college.

1 (b) The biological science review process's primary function is the
2 third-party scientific review of any draft or final commission or
3 department decisions regarding the management of wildlife and fish
4 species identified by the participants in the process. The director
5 must submit, when requested by the participants in the biological
6 science review process, available information relating to department or
7 commission draft or final decisions. The department is only required
8 to submit to the review process information that was reviewed or relied
9 upon by the department or the commission in the development of the
10 underlying decision. The department has no responsibility to compile
11 or generate additional information, provide information that would not
12 otherwise be subject to a public records request, annotate or explain
13 how the provided information was used by the department, or provide
14 information for decisions when not specifically requested to do so.

15 (c) Decisions that the participants in the biological science
16 review process may review include, but are not limited to:

- 17 (i) The adoption of management and conservation plans;
18 (ii) Rule making relating to the harvest or protection of a fish or
19 wildlife species or its habitat;
20 (iii) Land management decisions;
21 (iv) The setting of harvest levels; and
22 (v) The implementation of hydraulic project approval policies under
23 chapter 77.55 RCW.

24 (d) The biological science review process participants may conduct
25 a basic review of any department or commission draft or final decisions
26 to determine the decision's scope and effect. If the biological
27 science review process participants determine that the commission or
28 department decision is of a significant scope or has a significant
29 effect, then they have the discretion to conduct a scientific review of
30 the decision.

31 (e) If the biological science review process participants decide to
32 conduct a scientific review of a commission or department draft or
33 final decision, then the commission or department decision, along with
34 any supporting data provided by the commission or the department under
35 this section, may be subjected to both blind and open peer review by
36 the appropriate scientific community with anonymous peer reviewers
37 chosen by the biological science review process participants. Upon the
38 completion of the peer review, the biological science review process

1 participants must review the results and make available for publishing,
2 and transmission to the appropriate committees of the legislature, a
3 compilation of the review and any dissenting opinions.

4 (f) The biological science review process participants only have
5 the authority to provide a scientific review of commission or
6 department decisions. The commission and the department may not
7 consult with the biological science review process participants before
8 finalizing a decision or taking an action, and the biological science
9 review process participants do not have the authority to suggest or
10 mandate that the commission or department change a decision or take any
11 specific actions.

12 (g) The biological science review process participants have the
13 responsibility and authority to organize the process, set meeting times
14 and locations, and establish review procedures. To ensure the
15 credibility of the third-party review, all procedures must insulate the
16 review process from any interactions, explanations, or consultations
17 with or from the department staff except as necessary to request the
18 provision of information. The procedures may establish a process that
19 allows third parties to petition for the scientific review of a
20 specific department or commission draft or final decision.

21 (h) In addition to third-party petitions for review under (g) of
22 this subsection, any individual member of the commission may, at any
23 time, including prior to developing a proposal for the management of
24 any species, request a scientific literature review under this section
25 of any data that may exist or other information the commission has
26 received from any source, including the department. The commission
27 must make available on its internet web site all information received
28 as a result of the petition.

29 (i) Nothing in this section may be interpreted to alter the
30 responsibilities or authorities of the department or commission in any
31 way or to create expectations or requirements that the department or
32 commission will reach different decisions during or after a review
33 process. As such, nothing in this subsection:

34 (i) Requires a response or rebuttal by the department or the
35 commission to any findings of the review process;

36 (ii) Creates a requirement that the department provide any funding
37 for the operations of the biological science review process; or

1 (iii) Creates a legal cause of action, or creates evidence that
2 could be used in a legal cause of action, regarding a decision of the
3 department or commission.

4 (3)(a) The director may appoint and commission fish and wildlife
5 officers to serve as general authority Washington peace officers, as
6 defined in RCW 10.93.020. Under the interlocal cooperation act,
7 chapter 39.34 RCW, the director may contract with general authority law
8 enforcement agencies, federal law enforcement agencies, and limited
9 authority law enforcement agencies to enforce this title and the rules
10 of the department to provide mutual law enforcement assistance as
11 defined in chapter 10.93 RCW.

12 (b) Any liability or claimed liability that arises out of the
13 exercise of authority by an officer acting under the mutual aid
14 contract is the responsibility of the primary commissioning agency
15 unless the officer acts under the direction and control of the
16 department or unless the liability is otherwise allocated under a
17 written agreement between the primary commissioning agency and the
18 department.

19 NEW SECTION. Sec. 22. The legislature recognizes that the
20 department of fish and wildlife has multiple, and sometimes
21 conflicting, mandates as outlined in RCW 77.04.012. The intent of
22 establishing the biological science review process under RCW 77.04.080
23 is to provide for a degree of certainty that the fish and wildlife
24 management decisions being made by the state are reflective of the most
25 current scientific standards. It is not the intent of the legislature
26 for the biological science review process to provide input as to how
27 the department of fish and wildlife and the fish and wildlife
28 commission balance the competing mandates of RCW 77.04.012. Rather,
29 the intent of the legislature is to ensure that the fish and wildlife
30 management decision makers have access to the best possible science to
31 guide them with the implementation of their mandates.

32 **Sec. 23.** RCW 77.12.071 and 2007 c 337 s 2 are each amended to read
33 as follows:

34 (1) Department employees, in carrying out their duties under this
35 title on public lands or state waters, may:

1 (a) Collect samples of tissue, fluids, or other bodily parts of
2 fish, wildlife, or shellfish; or

3 (b) Board vessels in state waters engaged in commercial and
4 recreational harvest activities to collect samples of fish, wildlife,
5 or shellfish.

6 (i) Department employees shall ask permission from the owner or his
7 or her agent before boarding vessels in state waters.

8 (ii) If an employee of the department is denied access to any
9 vessel where access was sought for the purposes of (b) of this
10 subsection, the department employee may contact an enforcement officer
11 for assistance in applying for a search warrant authorizing access to
12 the vessel in order to carry out the department employee's duties under
13 this section.

14 (2) Department employees must have official identification,
15 announce their presence and intent, and perform their duties in a safe
16 and professional manner while carrying out the activities in this
17 section.

18 (3) This section does not apply to the harvest of private sector
19 cultured aquatic products as defined in RCW 15.85.020.

20 (4) This section does not apply to fish and wildlife officers (~~and~~
21 ~~ex officio fish and wildlife officers~~) carrying out their duties under
22 this title.

23 **Sec. 24.** RCW 77.12.154 and 1998 c 190 s 71 are each amended to
24 read as follows:

25 The director, fish and wildlife officers, (~~ex officio fish and~~
26 ~~wildlife officers~~), and department employees may enter upon any land
27 or waters and remain there while performing their duties without
28 liability for trespass.

29 It is lawful for aircraft operated by the department to land and
30 take off from the beaches or waters of the state.

31 **Sec. 25.** RCW 77.15.070 and 2005 c 406 s 2 are each amended to read
32 as follows:

33 (1) Fish and wildlife officers (~~and ex officio fish and wildlife~~
34 ~~officers~~) may seize without warrant boats, airplanes, vehicles,
35 motorized implements, conveyances, gear, appliances, or other articles
36 they have probable cause to believe have been held with intent to

1 violate or used in violation of this title or rule of the commission or
2 director. However, fish and wildlife officers (~~or ex officio fish and~~
3 ~~wildlife officers~~) may not seize any item or article, other than for
4 evidence, if under the circumstances, it is reasonable to conclude that
5 the violation was inadvertent. The property seized is subject to
6 forfeiture to the state under this section regardless of ownership.
7 Property seized may be recovered by its owner by depositing with the
8 department or into court a cash bond or equivalent security equal to
9 the value of the seized property but not more than one hundred thousand
10 dollars. Such cash bond or security is subject to forfeiture in lieu
11 of the property. Forfeiture of property seized under this section is
12 a civil forfeiture against property and is intended to be a remedial
13 civil sanction.

14 (2) In the event of a seizure of property under this section,
15 jurisdiction to begin the forfeiture proceedings shall commence upon
16 seizure. Within fifteen days following the seizure, the seizing
17 authority shall serve a written notice of intent to forfeit property on
18 the owner of the property seized and on any person having any known
19 right or interest in the property seized. Notice may be served by any
20 method authorized by law or court rule, including service by certified
21 mail with return receipt requested. Service by mail is deemed complete
22 upon mailing within the fifteen-day period following the seizure.

23 (3) Persons claiming a right of ownership or right to possession of
24 property are entitled to a hearing to contest forfeiture. Such a claim
25 shall specify the claim of ownership or possession and shall be made in
26 writing and served on the director within forty-five days of the
27 seizure. If the seizing authority has complied with notice
28 requirements and there is no claim made within forty-five days, then
29 the property shall be forfeited to the state.

30 (4) If any person timely serves the director with a claim to
31 property, the person shall be afforded an opportunity to be heard as to
32 the person's claim or right. The hearing shall be before the director
33 or director's designee, or before an administrative law judge appointed
34 under chapter 34.12 RCW, except that a person asserting a claim or
35 right may remove the matter to a court of competent jurisdiction if the
36 aggregate value of the property seized is more than five thousand
37 dollars. The department may settle a person's claim of ownership prior
38 to the administrative hearing.

1 (5) The hearing to contest forfeiture and any subsequent appeal
2 shall be as provided for in chapter 34.05 RCW, the administrative
3 procedure act. The seizing authority has the burden to demonstrate
4 that it had reason to believe the property was held with intent to
5 violate or was used in violation of this title or rule of the
6 commission or director. The person contesting forfeiture has the
7 burden of production and proof by a preponderance of evidence that the
8 person owns or has a right to possess the property and:

9 (a) That the property was not held with intent to violate or used
10 in violation of this title; or

11 (b) If the property is a boat, airplane, or vehicle, that the
12 illegal use or planned illegal use of the boat, airplane, or vehicle
13 occurred without the owner's knowledge or consent, and that the owner
14 acted reasonably to prevent illegal uses of such boat, airplane, or
15 vehicle.

16 (6) A forfeiture of a conveyance encumbered by a perfected security
17 interest is subject to the interest of the secured party if the secured
18 party neither had knowledge of nor consented to the act or omission.
19 No security interest in seized property may be perfected after seizure.

20 (7) If seized property is forfeited under this section the
21 department may retain it for official use unless the property is
22 required to be destroyed, or upon application by any law enforcement
23 agency of the state, release such property to the agency for the use of
24 enforcing this title, or sell such property, and deposit the proceeds
25 to the fish and wildlife enforcement reward account created in RCW
26 77.15.425.

27 **Sec. 26.** RCW 77.15.075 and 2009 c 204 s 1 are each amended to read
28 as follows:

29 (1) Fish and wildlife officers (~~(and ex officio fish and wildlife~~
30 ~~officers shall enforce this title, rules of the department, and other~~
31 ~~statutes as prescribed by the legislature. Fish and wildlife officers~~
32 ~~who are not ex officio officers)) shall have and exercise, throughout~~
33 the state, such police powers and duties as are vested in sheriffs and
34 peace officers generally. Fish and wildlife officers are general
35 authority Washington peace officers.

36 (2) An applicant for a fish and wildlife officer position must be
37 a citizen of the United States of America who can read and write the

1 English language. (~~All fish and wildlife officers employed after June
2 13, 2002, must successfully complete the basic law enforcement academy
3 course, known as the basic course, sponsored by the criminal justice
4 training commission, or the basic law enforcement equivalency
5 certification, known as the equivalency course, provided by the
6 criminal justice training commission. All officers employed on June
7 13, 2002, must have successfully completed the basic course, the
8 equivalency course, or the supplemental course in criminal law
9 enforcement, known as the supplemental course, offered under chapter
10 155, Laws of 1985. Any officer who has not successfully completed the
11 basic course, the equivalency course, or the supplemental course must
12 complete the basic course or the equivalency course within fifteen
13 months of June 13, 2002.~~

14 ~~(2) Fish and wildlife officers are peace officers.)~~

15 (3) Any liability or claim of liability under chapter 4.92 RCW that
16 arises out of the exercise or alleged exercise of authority by a fish
17 and wildlife officer rests with the department unless the fish and
18 wildlife officer acts under the direction and control of another agency
19 or unless the liability is otherwise assumed under an agreement between
20 the department and another agency.

21 ~~(4) (Fish and wildlife officers may serve and execute warrants and
22 processes issued by the courts.~~

23 ~~(5))~~ The department may utilize the services of a volunteer
24 chaplain as provided under chapter 41.22 RCW.

25 **Sec. 27.** RCW 77.15.080 and 2002 c 281 s 8 are each amended to read
26 as follows:

27 (1) Based upon articulable facts that a person is engaged in
28 fishing, harvesting, or hunting activities, fish and wildlife officers
29 have the authority to temporarily stop the person and check for valid
30 licenses, tags, permits, stamps, or catch record cards, and to inspect
31 all fish, shellfish, seaweed, and wildlife in possession as well as the
32 equipment being used to ensure compliance with the requirements of this
33 title, and may request the person to write his or her signature for
34 comparison with the signature on the license. Failure to comply with
35 the request is prima facie evidence that the person is not the person
36 named on the license. For licenses purchased over the internet or

1 telephone, fish and wildlife officers may require the person, if age
2 eighteen or older, to exhibit a driver's license or other photo
3 identification.

4 (2) Based upon articulable facts that a person is transporting a
5 prohibited aquatic animal species or any aquatic plant, fish and
6 wildlife officers (~~and ex officio fish and wildlife officers~~) have
7 the authority to temporarily stop the person and inspect the watercraft
8 to ensure that the watercraft and associated equipment are not
9 transporting prohibited aquatic animal species or aquatic plants.

10 **Sec. 28.** RCW 77.15.085 and 2000 c 107 s 232 are each amended to
11 read as follows:

12 Fish and wildlife officers (~~and ex officio fish and wildlife~~
13 ~~officers~~) may seize without a warrant wildlife, fish, and shellfish
14 they have probable cause to believe have been taken, transported, or
15 possessed in violation of this title or rule of the commission or
16 director.

17 **Sec. 29.** RCW 77.15.092 and 2000 c 107 s 213 are each amended to
18 read as follows:

19 Fish and wildlife officers (~~and ex officio fish and wildlife~~
20 ~~officers~~) may arrest without warrant persons found violating the law
21 or rules adopted pursuant to this title.

22 **Sec. 30.** RCW 77.15.094 and 2001 c 253 s 25 are each amended to
23 read as follows:

24 Fish and wildlife officers (~~and ex officio fish and wildlife~~
25 ~~officers~~) may make a reasonable search without warrant of a vessel,
26 conveyances, vehicles, containers, packages, or other receptacles for
27 fish, seaweed, shellfish, and wildlife which they have reason to
28 believe contain evidence of a violation of law or rules adopted
29 pursuant to this title and seize evidence as needed for law
30 enforcement. This authority does not extend to quarters in a boat,
31 building, or other property used exclusively as a private domicile,
32 does not extend to transitory residences in which a person has a
33 reasonable expectation of privacy, and does not allow search and
34 seizure without a warrant if the thing or place is protected from
35 search without warrant within the meaning of Article I, section 7 of

1 the state Constitution. Seizure of property as evidence of a crime
2 does not preclude seizure of the property for forfeiture as authorized
3 by law.

4 **Sec. 31.** RCW 77.15.480 and 2001 c 253 s 42 are each amended to
5 read as follows:

6 Articles or devices unlawfully used, possessed, or maintained for
7 catching, taking, killing, attracting, or decoying wildlife, fish, and
8 shellfish are public nuisances. If necessary, fish and wildlife
9 officers (~~and ex officio fish and wildlife officers~~) may seize,
10 abate, or destroy these public nuisances without warrant or process.

11 **Sec. 32.** RCW 77.15.710 and 2000 c 107 s 257 are each amended to
12 read as follows:

13 (1) The commission shall revoke all hunting, fishing, or other
14 licenses issued under this title and order a ten-year suspension of all
15 privileges extended under the authority of the department of a person
16 convicted of assault on a fish and wildlife officer, (~~ex officio~~
17 ~~officer,~~) employee, agent, or personnel acting for the department, if
18 the employee assaulted was on duty at the time of the assault and
19 carrying out the provisions of this title. The suspension shall be
20 continued beyond this period if any damages to the victim have not been
21 paid by the suspended person.

22 (2) For the purposes of this section, the definition of assault
23 includes:

- 24 (a) RCW 9A.32.030; murder in the first degree;
- 25 (b) RCW 9A.32.050; murder in the second degree;
- 26 (c) RCW 9A.32.060; manslaughter in the first degree;
- 27 (d) RCW 9A.32.070; manslaughter in the second degree;
- 28 (e) RCW 9A.36.011; assault in the first degree;
- 29 (f) RCW 9A.36.021; assault in the second degree; and
- 30 (g) RCW 9A.36.031; assault in the third degree.

31 **Sec. 33.** RCW 77.32.014 and 2001 c 253 s 50 are each amended to
32 read as follows:

33 Licenses, tags, and stamps issued pursuant to this chapter shall be
34 revoked and the privileges suspended for any period in which a person
35 is certified by the department of social and health services or a court

1 of competent jurisdiction as a person in noncompliance with a support
2 order. Fish and wildlife officers (~~(and ex officio fish and wildlife~~
3 ~~officers)~~) shall enforce this section through checks of the department
4 of licensing's computer database. A listing on the department of
5 licensing's database that an individual's license is currently
6 suspended pursuant to RCW 46.20.291(8) shall be prima facie evidence
7 that the individual is in noncompliance with a support order.
8 Presentation of a written release issued by the department of social
9 and health services stating that the person is in compliance with an
10 order shall serve as prima facie proof of compliance with a support
11 order.

12 **Sec. 34.** RCW 77.75.110 and 2000 c 107 s 222 are each amended to
13 read as follows:

14 To enforce RCW 77.75.120 and 77.75.130, courts in the counties
15 contiguous to the boundary waters(~~(~~7~~)~~) and fish and wildlife
16 officers(~~(~~7~~, ~~and ex officio fish and wildlife officers~~)~~) have
17 jurisdiction over the boundary waters to the furthestmost shoreline.
18 This jurisdiction is concurrent with the courts and law enforcement
19 officers of Idaho.

20 **Sec. 35.** RCW 77.75.120 and 2000 c 107 s 223 are each amended to
21 read as follows:

22 The taking of wildlife from the boundary waters or islands of the
23 Snake river shall be in accordance with the wildlife laws of the
24 respective states. Fish and wildlife officers (~~(and ex officio fish~~
25 ~~and wildlife officers)~~) shall honor the license of either state and the
26 right of the holder to take wildlife from the boundary waters and
27 islands in accordance with the laws of the state issuing the license.

28 NEW SECTION. **Sec. 36.** (1) The department of fish and wildlife
29 must, by December 31, 2011, deliver a report to the legislature,
30 consistent with RCW 43.01.036, that identifies potential programs,
31 license fees, and mechanisms by which private, nonprofit salmon
32 enhancement organizations would be enabled to raise and control funds
33 that can be used for the salmon enhancement goals of the organizations.

34 (2) In preparing the report required by this section, the

1 department of fish and wildlife must work proactively with any
2 interested private, nonprofit salmon enhancement organizations.

3 (3) This section expires July 31, 2012.

4 **Sec. 37.** RCW 77.12.870 and 2010 c 193 s 8 are each amended to read
5 as follows:

6 (1) The department, in partnership with the Northwest straits
7 commission, the department of natural resources, and other interested
8 parties, must create and ensure the maintenance of a database of known
9 derelict fishing gear and shellfish pots, including the type of gear
10 and its location.

11 (2)(a) A person who loses or abandons commercial net fishing gear
12 (~~((or shellfish pots))~~) within the waters of the state is (~~((encouraged))~~)
13 required to report the location of the loss and the type of gear lost
14 to the department within forty-eight hours of the loss.

15 (b) A person who loses or abandons shellfish pots within the waters
16 of the state is encouraged to report the location of the loss and the
17 type of gear lost to the department.

18 NEW SECTION. **Sec. 38.** If any provision of this act or its
19 application to any person or circumstance is held invalid, the
20 remainder of the act or the application of the provision to other
21 persons or circumstances is not affected."

22 Correct the title.

EFFECT: The amended bill creates a three-member biological
science review process (process) to review significant decisions of the
department of fish and wildlife and the fish and wildlife commission
and, if appropriate, conduct a peer review of those decisions with the
appropriate scientific community. The department of fish and wildlife
(WDFW) is not required to create or annotate any information for the
process, and the results of the process may not be used as the basis
for a cause of action, as well as specifying that the third-party
review must exclude additional department interactions.

Taxidermists, fur dealers, or wildlife meat cutters are allowed to
record the license number of the person delivering product as an
optional alternative to recording personal information. The fish and
wildlife commission is authorized to use their rule-making authority to

clear up any ambiguity created by the statutory use of common names for species and classes of species.

The WDFW is directed to prepare a one-time report to the legislature that identifies potential programs, license fees, and mechanisms by which private, nonprofit salmon enhancement organizations would be enabled to raise and control funds that can be used for the salmon enhancement goals of the organizations.

Any person who loses or abandons net fishing gear is required to report the loss to the department of fish and wildlife; language is maintained encouraging the reporting of lost shellfish pots.

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