

SENATE BILL REPORT

SB 5201

As Reported by Senate Committee On:
Natural Resources & Marine Waters, February 9, 2011

Title: An act relating to fish and wildlife management.

Brief Description: Regarding issues that impact the department of fish and wildlife.

Sponsors: Senators Hargrove, Swecker, Regala, Fraser and Parlette; by request of Department of Fish and Wildlife.

Brief History:

Committee Activity: Natural Resources & Marine Waters: 1/24/11, 2/09/11 [DPS].

SENATE COMMITTEE ON NATURAL RESOURCES & MARINE WATERS

Majority Report: That Substitute Senate Bill No. 5201 be substituted therefor, and the substitute bill do pass.

Signed by Senators Ranker, Chair; Regala, Vice Chair; Morton, Ranking Minority Member; Fraser, Hargrove, Stevens and Swecker.

Staff: Curt Gavigan (786-7437)

Background: Role of the Department of Fish and Wildlife (DFW). DFW serves as manager of the state's fish and wildlife resources. Among other duties, DFW must classify wildlife and establish the basic rules and regulations governing the time, place, manner, and methods used to harvest or enjoy fish and wildlife.

Scope of Title 77 RCW. Title 77 RCW serves as the primary location for statutes providing DFW with authorities and responsibilities relating to fish and wildlife resources. The title contains provisions relating to matters including:

- agency organization and oversight;
- fish and wildlife management and rulemaking authority;
- licensing structures for hunting and commercial and recreational fishing; and
- enforcement of fish and wildlife laws and rules.

Summary of Bill (Recommended Substitute): Criminal and Civil Liability for Fire on DFW Managed Lands. Generally, a person who willfully starts a fire on DFW managed lands is subject to a gross misdemeanor. However, a person may use fire in specified

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circumstances including in a barbeque, campfire, or by an agency for habitat management or firefighting efforts.

A person whose negligence is responsible for a fire starting or allowing an existing fire to spread onto DFW land is subject to civil liability for reasonable expenses incurred in fighting the fire.

Resident Licensing. Generally a person may not hold a resident license in Washington as well a resident license from another state or country.

Resident licensing is authorized for:

- the spouse of an armed forces member who qualifies as a resident;
- an armed forces member temporarily stationed in Washington on pre-deployment orders; and
- an armed forces member permanently stationed in Washington who designates Washington as their legal residence on specified military documents and does not have a resident license in another state or country.

Shooting a Person or Livestock. DFW must suspend a person's hunting privileges for:

- three years for discharging a firearm, bow, or crossbow in a manner that injures, or that a reasonable person would believe is likely to injure, a person or domestic livestock, or kills domestic livestock;
- ten years if the discharge results in a person's death. Current law provides a ten-year suspension if the shooting results from criminal negligence or reckless or intentional conduct.

Additional Penalties for Taking Protected or Endangered Wildlife. A \$2,000 penalty assessment is imposed on a person convicted of unlawfully taking a protected fish or wildlife involving a Ferruginous Hawk, Common Loon, Bald Eagle, or Peregrine Falcon. Amounts collected must be deposited in the Fish and Wildlife Enforcement Reward Account. DFW must also suspend the hunting and fishing privileges of a person convicted of taking protected or endangered wildlife for three years.

Feeding of Predatory Wildlife. A person is prohibited from intentionally feeding a bear, cougar, or wolf, subject to a misdemeanor. A person is also prohibited from negligently feeding a bear, cougar, or wolf, subject to an infraction. If the person does not correct the problem within 24 hours of issuance of the infraction, they are subject to a misdemeanor. Exemptions from the general prohibition on feeding predatory wildlife are provided for certain entities including for forestry operations, hunters, farmers, zoos, licensed wildlife rehabilitators, and certain wildlife capture activities conducted or authorized by DFW.

Ex-officio Fish and Wildlife Officers. The term "ex-officio Fish and Wildlife Officer" is removed from statute, which referred to a general authority law enforcement officer from other agencies, limited authority law enforcement officers certain federal agencies, the State Parks and Recreation Commission, and the Department of Natural Resources. Instead, the director of DFW may enter into interlocal cooperation agreements with other law enforcement agencies that allow such agencies to conduct fish and wildlife enforcement activities.

Recordkeeping Requirements for Taxidermists, Fur Dealers, and Meat Cutters. Taxidermists, fur dealers, and meat cutters are required to maintain specified records of each wildlife carcass or part received for a period of three years, and a violation of this requirement is a misdemeanor.

Regional Fisheries Enhancement Group (RFEG) Assistance. The authorized use of the Regional Fisheries Enhancement Group Account is expanded to allow DFW to provide assistance and training to RFEGs. DFW may use up to 20 percent of account funds for this purpose.

DFW Access to Controlled Substances for Wildlife Management. In addition to access to controlled substances for the chemical capture of wildlife, DFW may apply to the Department of Health (DOH) to access such substances to euthanize injured, sick, or unwanted wildlife. DOH must authorize such requests.

EFFECT OF CHANGES MADE BY NATURAL RESOURCES & MARINE WATERS COMMITTEE (Recommended Substitute): The proposed substitute bill:

- increases internal consistency for the definitions and language that apply to fur dealers, meat cutters, and taxidermists;
- adds a reasonable person standard to language providing a three-year license suspension for shooting a weapon in a manner that injures or is likely to injure a person or domestic livestock, or kills domestic livestock;
- removes tundra swans and trumpeter swans from the list of protected wildlife for which a criminal wildlife penalty assessment applies, as they are not protected wildlife under state law;
- increases the license suspension privilege from two to three years for a conviction of taking endangered or protected fish or wildlife;
- provides an exemption to the restrictions on feeding predatory wildlife for licensed wildlife rehabilitators and fish and wildlife enforcement capture activities relating to safety threats and wildlife interactions;
- specifies that keeping food or waste in an enclosed garbage can or container does not constitute feeding predatory wildlife unless a person is directed by an enforcement authority to secure the container in another manner; and
- makes technical changes.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: PRO: Fish and wildlife issues are highly complex and regulated, and require many statutory changes to adjust to new situations that arise. Statutory changes are still being made as a result of the merger of the Departments of Fisheries and Wildlife. DFW has worked with stakeholders to craft the bill, which

addresses a broad array of fish and wildlife resource and land management issues. Hunters are supportive of the bill, and are willing to work on any necessary changes as the bill moves forward.

Persons Testifying: PRO: Bruce Bjork, Mike Cenci, Department of Fish and Wildlife; Ed Owens, Hunters Heritage Council.