

# SENATE BILL REPORT

## SB 6137

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As Reported by Senate Committee On:  
Energy, Natural Resources & Marine Waters, February 2, 2012

**Title:** An act relating to an affirmative defense to unlawful taking of endangered fish or wildlife.

**Brief Description:** Providing an affirmative defense to the unlawful taking of endangered fish or wildlife when the incident involves a gray wolf.

**Sponsors:** Senators Schoesler, Morton, Hatfield, Delvin, Honeyford and Hobbs.

**Brief History:**

**Committee Activity:** Energy, Natural Resources & Marine Waters: 1/19/12, 2/02/12 [DPS].

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### SENATE COMMITTEE ON ENERGY, NATURAL RESOURCES & MARINE WATERS

**Majority Report:** That Substitute Senate Bill No. 6137 be substituted therefor, and the substitute bill do pass.

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

**Staff:** Angeline Thomas (786-7470)

**Background:** Under federal law, the gray wolf is listed as endangered under the Endangered Species Act (ESA) in the western two-thirds of Washington. Within this area, it is fully protected by the ESA, which is administered and enforced by the U.S. Fish and Wildlife Service (USFWS). On May 5, 2011, wolves were federally delisted in the eastern one-third of Washington. This means that the USFWS has the lead responsibility for wolf management in the western two-thirds of Washington.

Under state law, the gray wolf was listed as endangered in 1980 and receives protection from hunting, possession, malicious harassment, and killing. It was listed because of its historical occurrence in the state, near elimination from the state, and existing status as endangered under the ESA. State law specifies that when species are federally listed, the Department of Fish and Wildlife (WDFW) will recommend that they be added to the state's list.

Because wolves have been federally delisted in the eastern one-third of Washington, WDFW has management authority over the species in this part of the state.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

It is illegal to kill endangered species under state law. Penalties for illegally killing a state endangered species range up to \$10,000 and/or five years in jail. Upon a felony conviction, WDFW must suspend a person's hunting privileges for two years.

**Summary of Bill (Recommended Substitute):** An exception is added to the unlawful taking of endangered fish or wildlife statute to allow for the taking of a wolf consistent with commission rules. The commission is directed that its rules must allow for an owner, the owner's immediate family member, or the owner's documented employee to kill a gray wolf, regardless of state classification, without a permit when there is physical evidence that the wolf is in the act of attacking the owner's livestock. The commission may establish rules specifying conditions under which this action can take place

**EFFECT OF CHANGES MADE BY ENERGY, NATURAL RESOURCES & MARINE WATERS COMMITTEE (Recommended Substitute):**

- The language establishing an affirmative defense is deleted.
- An exception is added to the unlawful taking of endangered fish or wildlife statute to allow for the taking of a wolf consistent with commission rules.
- The commission's rules must allow for an owner, the owner's immediate family member, or the owner's documented employee to kill a gray wolf, regardless of state classification, without a permit when there is physical evidence that the wolf is in the act of attacking the owner's livestock.
- The commission may establish rules specifying conditions under which this action can take place.

**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: This bill is an important tool for livestock owners to be able to protect their investment and avoid criminal and civil liability. Livestock loss from wolf predation makes it difficult for ranchers to stay in business and WDFW's current permit and compensation scheme are impractical. Livestock owners should not have to wait until their livestock are injured or killed before being able to apply for a permit. Furthermore, this bill addresses the tenuous issue with the split between wolves being federally listed in some parts of the state but not others.

OTHER: WDFW recognizes the intent of the bill, but has some significant concerns and is willing to work with the sponsor to make both technical and substantive changes. WDFW does provide tools for livestock owners against wolf predation including various non-lethal methods, a permit program that authorizes lethal management under certain circumstances, and a compensation program for livestock losses. Other states have shown that lethal management methods are not the most effective.

**Persons Testifying:** PRO: Jack Field, Rick Nelson, WA Cattlemen's Assn.; Heather Hanson, Cattle Producers of WA; Jim Jesernig, WA Assn. of Conservations Districts.

OTHER: Dave Ware, WDFW.