H-0533.1			

HOUSE BILL 1138

State of Washington 62nd Legislature 2011 Regular Session

By Representatives Blake, Chandler, Takko, Kretz, Hurst, Short, Kristiansen, and McCune

Read first time 01/13/11. Referred to Committee on Agriculture & Natural Resources.

- AN ACT Relating to trapping; amending RCW 77.08.010 and 77.65.450;
- 2 adding a new chapter to Title 77 RCW; creating a new section; repealing
- 3 RCW 77.15.190, 77.15.191, 77.15.192, 77.15.194, 77.15.196, 77.15.198,
- 4 77.32.545, and 77.65.460; and prescribing penalties.
- 5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:
- 6 **Sec. 1.** RCW 77.08.010 and 2009 c 333 s 12 are each amended to read 7 as follows:
- 8 The definitions in this section apply throughout this title or 9 rules adopted under this title unless the context clearly requires 10 otherwise.
- 11 (1) "Angling gear" means a line attached to a rod and reel capable 12 of being held in hand while landing the fish or a hand-held line 13 operated without rod or reel.
- 14 (2) "Aquatic invasive species" means any invasive, prohibited, 15 regulated, unregulated, or unlisted aquatic animal or plant species as 16 defined under subsections (3), (28), (40), (44), (58), and (59) of this 17 section, aquatic noxious weeds as defined under RCW 17.26.020(5)(c), 18 and aquatic nuisance species as defined under RCW 77.60.130(1).

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1 (3) "Aquatic plant species" means an emergent, submersed, partially 2 submersed, free-floating, or floating-leaving plant species that grows 3 in or near a body of water or wetland.

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- (4) "Bag limit" means the maximum number of game animals, game birds, or game fish which may be taken, caught, killed, or possessed by a person, as specified by rule of the commission for a particular period of time, or as to size, sex, or species.
- (5) "Closed area" means a place where the hunting of some or all species of wild animals or wild birds is prohibited.
 - (6) "Closed season" means all times, manners of taking, and places or waters other than those established by rule of the commission as an open season. "Closed season" also means all hunting, fishing, taking, or possession of game animals, game birds, game fish, food fish, or shellfish that do not conform to the special restrictions or physical descriptions established by rule of the commission as an open season or that have not otherwise been deemed legal to hunt, fish, take, harvest, or possess by rule of the commission as an open season.
 - (7) "Closed waters" means all or part of a lake, river, stream, or other body of water, where fishing or harvesting is prohibited.
- (8) "Commercial" means related to or connected with buying, selling, or bartering.
 - (9) "Commission" means the state fish and wildlife commission.
- (10) "Concurrent waters of the Columbia river" means those waters of the Columbia river that coincide with the Washington-Oregon state boundary.
- 26 (11) "Contraband" means any property that is unlawful to produce or possess.
- 28 (12) "Deleterious exotic wildlife" means species of the animal 29 kingdom not native to Washington and designated as dangerous to the 30 environment or wildlife of the state.
 - (13) "Department" means the department of fish and wildlife.
- 32 (14) "Director" means the director of ((fish and wildlife)) the 33 department.
- 34 (15) "Endangered species" means wildlife designated by the 35 commission as seriously threatened with extinction.
- 36 (16) "Ex officio fish and wildlife officer" means a commissioned 37 officer of a municipal, county, state, or federal agency having as its 38 primary function the enforcement of criminal laws in general, while the

officer is in the appropriate jurisdiction. The term "ex officio fish and wildlife officer" includes special agents of the national marine fisheries service, state parks commissioned officers, United States fish and wildlife special agents, department of natural resources enforcement officers, and United States forest service officers, while the agents and officers are within their respective jurisdictions.

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- (17) "Fish" includes all species classified as game fish or food fish by statute or rule, as well as all fin fish not currently classified as food fish or game fish if such species exist in state waters. The term "fish" includes all stages of development and the bodily parts of fish species.
- (18) "Fish and wildlife officer" means a person appointed and commissioned by the director, with authority to enforce this title and rules adopted pursuant to this title, and other statutes as prescribed by the legislature. Fish and wildlife officer includes a person commissioned before June 11, 1998, as a wildlife agent or a fisheries patrol officer.
- (19) "Fish broker" means a person whose business it is to bring a seller of fish and shellfish and a purchaser of those fish and shellfish together.
- 21 (20) "Fishery" means the taking of one or more particular species 22 of fish or shellfish with particular gear in a particular geographical 23 area.
 - (21) "Freshwater" means all waters not defined as saltwater including, but not limited to, rivers upstream of the river mouth, lakes, ponds, and reservoirs.
 - (22) "Fur-bearing animals" means game animals that shall not be trapped except as authorized by the commission.
- 29 (23) "Game animals" means wild animals that shall not be hunted 30 except as authorized by the commission.
- 31 (24) "Game birds" means wild birds that shall not be hunted except 32 as authorized by the commission.
- 33 (25) "Game farm" means property on which wildlife is held or raised 34 for commercial purposes, trade, or gift. The term "game farm" does not 35 include publicly owned facilities.
- 36 (26) "Game reserve" means a closed area where hunting for all wild 37 animals and wild birds is prohibited.
 - (27) "Illegal items" means those items unlawful to be possessed.

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- 1 (28) "Invasive species" means a plant species or a nonnative animal species that either:
 - (a) Causes or may cause displacement of, or otherwise threatens, native species in their natural communities;
- 5 (b) Threatens or may threaten natural resources or their use in the 6 state;
 - (c) Causes or may cause economic damage to commercial or recreational activities that are dependent upon state waters; or
 - (d) Threatens or harms human health.

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- 10 (29) "License year" means the period of time for which a 11 recreational license is valid. The license year begins April 1st, and 12 ends March 31st.
- 13 (30) "Limited-entry license" means a license subject to a license 14 limitation program established in chapter 77.70 RCW.
- 15 (31) "Money" means all currency, script, personal checks, money 16 orders, or other negotiable instruments.
 - (32) "Nonresident" means a person who has not fulfilled the qualifications of a resident.
 - (33) "Offshore waters" means marine waters of the Pacific Ocean outside the territorial boundaries of the state, including the marine waters of other states and countries.
 - (34) "Open season" means those times, manners of taking, and places or waters established by rule of the commission for the lawful hunting, fishing, taking, or possession of game animals, game birds, game fish, food fish, or shellfish that conform to the special restrictions or physical descriptions established by rule of the commission or that have otherwise been deemed legal to hunt, fish, take, harvest, or possess by rule of the commission. "Open season" includes the first and last days of the established time.
- 30 (35) "Owner" means the person in whom is vested the ownership dominion, or title of the property.
- 32 (36) "Person" means and includes an individual; a corporation; a 33 public or private entity or organization; a local, state, or federal 34 agency; all business organizations, including corporations and 35 partnerships; or a group of two or more individuals acting with a 36 common purpose whether acting in an individual, representative, or 37 official capacity.

- 1 (37) "Personal property" or "property" includes both corporeal and 2 incorporeal personal property and includes, among other property, 3 contraband and money.
 - (38) "Personal use" means for the private use of the individual taking the fish or shellfish and not for sale or barter.
 - (39) "Predatory birds" means wild birds that may be hunted throughout the year as authorized by the commission.
 - (40) "Prohibited aquatic animal species" means an invasive species of the animal kingdom that has been classified as a prohibited aquatic animal species by the commission.
 - (41) "Protected wildlife" means wildlife designated by the commission that shall not be hunted or fished.
 - (42) "Raffle" means an activity in which tickets bearing an individual number are sold for not more than twenty-five dollars each and in which a permit or permits are awarded to hunt or for access to hunt big game animals or wild turkeys on the basis of a drawing from the tickets by the person or persons conducting the raffle.
 - (43) "Recreational and commercial watercraft" includes the boat, as well as equipment used to transport the boat, and any auxiliary equipment such as attached or detached outboard motors.
 - (44) "Regulated aquatic animal species" means a potentially invasive species of the animal kingdom that has been classified as a regulated aquatic animal species by the commission.
 - (45) "Resident" means:

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- (a) A person who has maintained a permanent place of abode within the state for at least ninety days immediately preceding an application for a license, has established by formal evidence an intent to continue residing within the state, and who is not licensed to hunt or fish as a resident in another state; and
- (b) A person age eighteen or younger who does not qualify as a resident under (a) of this subsection, but who has a parent that qualifies as a resident under (a) of this subsection.
- 33 (46) "Retail-eligible species" means commercially harvested salmon, 34 crab, and sturgeon.
 - (47) "Saltwater" means those marine waters seaward of river mouths.
- 36 (48) "Seaweed" means marine aquatic plant species that are 37 dependent upon the marine aquatic or tidal environment, and exist in

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- either an attached or free floating form, and includes but is not limited to marine aquatic plants in the classes Chlorophyta, Phaeophyta, and Rhodophyta.
 - (49) "Senior" means a person seventy years old or older.

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- (50) "Shellfish" means those species of marine and freshwater invertebrates that have been classified and that shall not be taken except as authorized by rule of the commission. The term "shellfish" includes all stages of development and the bodily parts of shellfish species.
- (51) "State waters" means all marine waters and fresh waters within ordinary high water lines and within the territorial boundaries of the state.
- 13 (52) "To fish," "to harvest," and "to take," and their derivatives 14 means an effort to kill, injure, harass, or catch a fish or shellfish.
- 15 (53) "To hunt" and its derivatives means an effort to kill, injure, 16 capture, or harass a wild animal or wild bird.
- 17 (54) "To process" and its derivatives mean preparing or preserving 18 fish, wildlife, or shellfish.
- 19 (55) "To trap" and its derivatives means a method of hunting using 20 devices to capture wild animals or wild birds.
- 21 (56) "Trafficking" means offering, attempting to engage, or 22 engaging in sale, barter, or purchase of fish, shellfish, wildlife, or 23 deleterious exotic wildlife.
 - (57) "Unclaimed" means that no owner of the property has been identified or has requested, in writing, the release of the property to themselves nor has the owner of the property designated an individual to receive the property or paid the required postage to effect delivery of the property.
 - (58) "Unlisted aquatic animal species" means a nonnative animal species that has not been classified as a prohibited aquatic animal species, a regulated aquatic animal species, or an unregulated aquatic animal species by the commission.
 - (59) "Unregulated aquatic animal species" means a nonnative animal species that has been classified as an unregulated aquatic animal species by the commission.
- 36 (60) "Wholesale fish dealer" means a person who, acting for 37 commercial purposes, takes possession or ownership of fish or shellfish 38 and sells, barters, or exchanges or attempts to sell, barter, or

exchange fish or shellfish that have been landed into the state of Washington or entered the state of Washington in interstate or foreign commerce.

- (61) "Wild animals" means those species of the class Mammalia whose members exist in Washington in a wild state and the species Rana catesbeiana (bullfrog). The term "wild animal" does not include feral domestic mammals ((or)), moles, gophers, Eastern grey squirrels, California ground squirrels, and old world rats and mice of the family Muridae of the order Rodentia.
- 10 (62) "Wild birds" means those species of the class Aves whose 11 members exist in Washington in a wild state.
 - (63) "Wildlife" means all species of the animal kingdom whose members exist in Washington in a wild state. This includes but is not limited to mammals, birds, reptiles, amphibians, fish, and invertebrates. The term "wildlife" does not include feral domestic mammals, old world rats and mice of the family Muridae of the order Rodentia, or those fish, shellfish, and marine invertebrates classified as food fish or shellfish by the director. The term "wildlife" includes all stages of development and the bodily parts of wildlife members.
- 21 (64) "Youth" means a person fifteen years old for fishing and under 22 sixteen years old for hunting.
- 23 (65) "Animal problem" means a situation where a wild animal
 24 threatens or damages either public or private property or resources,
 25 threatens or injures livestock or any other domestic animal, or creates
 26 a threat to public health and safety.
- 27 (66) "Body-gripping trap" means any trap, other than a net, that 28 grips an animal's body or body part, including leghold and foothold 29 traps, neck snares, and nonstrangling foot snares.
 - (67) "Mountain beaver" means the species Aplodontia rufa.
 - (68) "Prohibited trap" means:

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- (a) All body-gripping traps;
- 33 (b) Traps or other devices that use sodium fluoroacetate or sodium 34 cyanide as a killing agent; and
- 35 (c) Any other trap types prohibited from use in Washington by the commission.
- 37 <u>(69) "Raw fur" means a pelt that has not been processed for</u> 38 purposes of retail sale.

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NEW SECTION. Sec. 2. The commission has the authority to manage 1 2 the trapping of wild animals in Washington. This authority includes the ability to establish trapping seasons, prohibit the use of any trap 3 type, establish prerequisites for the receipt of a trapping license, 4 5 establish requirements for commerce in raw fur, establish required timelines for checking set traps, establish requirements for the 6 7 handling, holding, transport, dispatch, and release of captured 8 wildlife, and adopt any other rules deemed necessary by the commission 9 for the management of wild animal trapping consistent with this 10 chapter.

- NEW SECTION. Sec. 3. (1) A person must possess a departmentissued Washington trapping license in order to lawfully trap wild animals throughout the state. Prior to being issued a trapping license, the person must satisfy the requirements of section 4 of this act.
 - (2)(a) A Washington trapping license allows the holder to trap wild animals and wild birds on his or her property, or on the property of another, consistent with this title.
- 19 (b) A Washington trapping license is valid from the date of 20 issuance until the April 1st following the date of issuance.
- 21 (c) The fee for a Washington trapping license is as provided in RCW 22 77.65.450.
 - (3)(a) The holder of a trapping license under this section must complete and submit to the department an accurate annual report of catch as required by rule of the commission. The report must be submitted to the department regardless of trapping success, and indicate the number, general location, and species of all wild animals captured that were not part of an animal problem controlled pursuant to section 6 of this act.
- 30 (b) The holders of trapping licenses that fail to submit a report 31 of catch shall, in addition to the penalties provided for in RCW 32 77.15.280, have their trapping privileges suspended for one year.
 - (c) It is the responsibility of each trapping licensee to submit a report of trapping results as required by rule of the commission.
- 35 (d) The department shall maintain and summarize all catch reports 36 received under this section, and shall present the summarized 37 information to the commission.

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(4) All persons trapping with a license issued under this section must comply with the provisions of this title and all rules adopted by the commission under this title.

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- NEW SECTION. Sec. 4. (1) Prior to being issued an initial Washington trapping license under section 3 of this act, a person must present the department with a certification of completion of a course of instruction in safe, humane, and proper trapping techniques or pass an examination to establish that the applicant has the requisite knowledge.
- 10 (2) The department shall establish a program for training persons 11 in trapping techniques and responsibilities, including the use of 12 trapping devices designed to painlessly capture or instantly kill. The 13 department shall cooperate with Washington-based animal shelters, 14 humane organizations, wildlife rehabilitation centers and similar entities providing animal care and rehabilitation services, hunter 15 16 education groups, and Washington-based trapping organizations in the 17 development and instruction of a curriculum for the training program. 18 Upon successful completion of the course, trainees must be given a training certificate signed by an authorized instructor, which must be 19 20 accepted by the department as evidence of compliance with this section.
- NEW SECTION. Sec. 5. (1) All individuals setting a trap for a wild animal must attach to the chain of their traps or devices a legible metal tag with either the department identification number of the trapper or the name and address of the trapper in English letters not less than one-eighth inch in height.
 - (2) No person may place a trap on private property without permission of the owner, lessee, or tenant if:
 - (a) The land is improved and apparently used;
 - (b) The land is fenced or enclosed in a manner designed to exclude intruders or to indicate a property boundary line; or
- 31 (c) Notice that the land is used is given by posting in a 32 conspicuous manner.
 - (3) When a property owner, lessee, or tenant presents a trap identification number to the department for a trap found upon the property of the owner, lessee, or tenant and requests identification of the trapper, the department shall provide the requestor with the name

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- and address of the trapper. Prior to disclosure of the trapper's name and address, the department shall obtain the name and address of the requesting individual in writing and after disclosing the trapper's name and address to the requesting individual, the requesting
- 5 individual's name and address shall be disclosed in writing to the 6 trapper whose name and address was disclosed.
- 7 (4) A property owner, lessee, or tenant may remove any trap placed 8 on the owner's, lessee's, or tenant's posted or fenced property.
- 9 <u>NEW SECTION.</u> **Sec. 6.** (1) Except as otherwise provided in this section, it is unlawful to use, attempt to use, or authorize the use of any prohibited trap to capture any wild animal.
 - (2)(a) The department may authorize a public or private landowner, tenant, or designee of the landowner or tenant to use specific types of body-gripping traps identified by the commission under section 7 of this act on his or her own property in order to address an animal problem if:
 - (i) The individual operating the traps holds a valid trapping license under section 3 of this act or has contracted with a trapper licensed under section 3 of this act; and
 - (ii) The landowner or tenant has documented to the department that a specific animal problem either exists or could potentially exist, and that nonlethal methods for addressing the animal problem cannot be reasonably and effectively applied.
 - (b) The owner or operator of commercial timber, as those terms are defined in RCW 76.09.020, may use otherwise prohibited body-gripping traps to capture mountain beavers. All individual mountain beavers trapped under this section, and the approximate location of the trapping, must be reported to the department on an annual basis.
 - (c) Department employees, or individuals working with the permission of or under the supervision of department employees, may use otherwise prohibited traps if the use of the traps is the only practical means of protecting threatened or endangered species as designated under RCW 77.08.010.
- 34 (d) The department may authorize the use of otherwise prohibited 35 traps to conduct legitimate wildlife research.
- 36 (e) The operators of public airports or the operators of private 37 airports open to the public may use otherwise prohibited body-gripping

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- traps, either on property controlled by the airport operator or on property in the immediate vicinity of the airport, to capture any wildlife not listed as threatened or endangered if the wildlife is posing a threat to human health and safety. Animals trapped under this section must be reported to the department on an annual basis.
- (3) If the commission has not identified at least one specific type of body-gripping trap for a particular animal problem in accordance with subsection (2) of this section, the director may issue a special permit to a public or private tenant or landowner for that animal problem consistent with WAC 232-12-142, as it existed on January 1, 2011.
- 12 (4) A violation of this section is a gross misdemeanor.

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- 13 NEW SECTION. Sec. 7. The commission shall adopt and maintain a list of body-gripping traps that may be lawfully used under section 6 14 The commission shall adopt specific trap types for 15 16 specific animal problems that are the most humane effective traps for 17 the targeted animal problem. The adoption of permissible trap types 18 under this section must be consistent with the established applicable furbearer trapping best management practices either adopted by an 19 20 association that represent North America's fish and wildlife management 21 agencies or that is otherwise acknowledged in either academic 22 literature or international treaties.
 - NEW SECTION. Sec. 8. (1) It is unlawful to knowingly buy, sell, barter, or otherwise exchange, or offer to buy, sell, barter, or otherwise exchange a wild animal, or the raw fur of a wild animal, that has been trapped in this state with a prohibited trap, unless the wild animal was trapped lawfully under section 6 of this act. Raw fur from other sources may be bought, sold, or bartered consistent with any rules adopted by the commission.
- 30 (2) The carcass of any animal captured in a prohibited trap may be 31 donated by the department to a public health or research institution.
 - (3) A violation of this section is a gross misdemeanor.
- 33 <u>NEW SECTION.</u> **Sec. 9.** (1) A person is guilty of unlawful trapping 34 if the person:

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- 1 (a) Sets out traps that are capable of taking wild animals, game 2 animals, or furbearing mammals and does not possess all licenses, tags, 3 or permits required under this title;
 - (b) Violates any rule of the commission or director regarding seasons, bag or possession limits, closed areas including game reserves, closed times, or any other rule governing the trapping of wild animals that does not constitute a violation of section 6 of this act; or
- 9 (c) Fails to identify the owner of the traps or devices consistent 10 with section 5 of this act.
- 11 (2) Unlawful trapping is a misdemeanor.

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- NEW SECTION. Sec. 10. (1) The director may revoke the trapping license of a person placing unauthorized traps on private property. Any unauthorized traps found on private property may be removed by the department.
 - (2) The director shall revoke the trapping license of any person convicted of a violation of section 6 of this act, and suspend the violator's trapping privileges for five years following the revocation. If a person is convicted of subsequent violations of section 6 of this act, the director shall permanently suspend his or her trapping privileges.
 - (3) A person who has his or her trapping privileges revoked under this section must satisfy the trapping education requirements of section 4 of this act no more than one year before a new trapping license is granted.
- 26 (4) The suspensions and revocations outlined in this section are to 27 be applied in addition to any appropriate criminal penalties.
- NEW SECTION. Sec. 11. Federal wildlife agencies and their employees and agents, while acting lawfully within the scope of their authority, are not subject to the provisions of this chapter.
- NEW SECTION. Sec. 12. (1) By vesting the authority to assess and approve trap types with the fish and wildlife commission, the legislature recognizes the specialized expertise of the fish and wildlife commission in overseeing the management of problem wildlife. Section 7 of this act is intended to create safeguards that ensure the

decision to allow a specific type of body-gripping trap in the state of Washington will receive an elevated level of scrutiny that is in balance with the gravity of the decision.

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- (2) To ensure that the safeguards created in section 7 of this act are working to satisfy the goals of this act, the fish and wildlife commission shall prepare a report to the appropriate committees of the legislature consistent with the provisions of RCW 43.01.036. The report must be completed prior to the commencement of the regularly scheduled 2012 legislative session, and must assess the trap type evaluation process created in this act in light of the legislature's goals in adopting this act.
- 12 **Sec. 13.** RCW 77.65.450 and 1991 sp.s. c 7 s 3 are each amended to read as follows:
- 14 ((A state trapping license allows the holder to trap fur bearing 15 animals throughout the state; however, a trapper may not place traps on private property without permission of the owner, lessee, or tenant 16 17 where the land is improved and apparently used, or where the land is 18 fenced or enclosed in a manner designed to exclude intruders or to indicate a property boundary line, or where notice is given by posting 19 20 in a conspicuous manner. A state trapping license is void on April 1st 21 following the date of issuance.)) The fee for ((this)) a Washington 22 trapping license, as required in section 3 of this act, is thirty-six 23 dollars for residents sixteen years of age or older, fifteen dollars 24 for residents under sixteen years of age, and one hundred eighty 25 dollars for nonresidents.
- NEW SECTION. Sec. 14. Sections 2 through 11 of this act constitute a new chapter in Title 77 RCW.
- NEW SECTION. Sec. 15. The following acts or parts of acts are each repealed:
- 30 (1) RCW 77.15.190 (Unlawful trapping--Penalty) and 1999 c 258 s 9
 31 & 1998 c 190 s 34;
- 32 (2) RCW 77.15.191 (Revocation of trapper's license--Placement of unauthorized traps) and 2000 c 107 s 268 & 1987 c 372 s 4;
 - (3) RCW 77.15.192 (Definitions) and 2001 c 1 s 2;

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- 1 (4) RCW 77.15.194 (Unlawful traps--Penalty) and 2003 c 53 s 374 & 2001 c 1 s 3;
- 3 (5) RCW 77.15.196 (Unlawful poison--Penalty) and 2003 c 53 s 375 & 2001 c 1 s 4;
- 5 (6) RCW 77.15.198 (Violation of RCW 77.15.194 or 77.15.196--6 Penalty) and 2003 c 53 s 376 & 2001 c 1 s 5;
- 7 (7) RCW 77.32.545 (Removal of trap--Identification of traps-8 Disclosure of identities) and 1998 c 190 s 121, 1993 sp.s. c 2 s 75,
 9 1988 c 36 s 51, 1987 c 372 s 1, 1980 c 78 s 85, & 1955 c 36 s
 10 77.16.170; and
- 11 (8) RCW 77.65.460 (Trapper's license--Training program or 22 examination requisite for issuance to initial licensee) and 1987 c 506 s 82, 1981 c 310 s 24, 1980 c 78 s 114, & 1977 c 43 s 1.

--- END ---