

ESHB 1496 - S COMM AMD

By Committee on Natural Resources & Parks

NOT CONSIDERED

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) Upon presentation of a tribal identification card by a member
6 of a federally recognized tribe to a fish and wildlife officer or ex
7 officio fish and wildlife officer and to the greatest extent possible,
8 the officer must immediately refer to the contents of the training
9 module on tribal hunting rights produced by the office of the attorney
10 general under section 2 of this act and take any applicable actions
11 consistent with the contents of the module.

12 (2) The requirements under subsection (1) of this section do not
13 abrogate or otherwise affect the terms of any intergovernmental, mutual
14 law enforcement assistance, or other cooperative agreement entered into
15 by the member's tribe and the department or local law enforcement
16 agency.

17 (3) To maximize efficiency and mutual benefit in hunting
18 enforcement, cooperative management and mutual law enforcement
19 assistance agreements agreed to by tribes and the department or local
20 law enforcement agency are encouraged on open and unclaimed lands where
21 a tribe has a treaty or other federally recognized right to hunt.

22 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.10 RCW
23 to read as follows:

24 (1) The office of the attorney general shall create and make
25 available a training module on tribal hunting rights to assist all
26 general authority Washington peace officers with understanding the
27 rights of tribal hunters, the related complexity of enforcing hunting
28 laws, and the recommended course of action that should be taken by a
29 peace officer when an individual presents a tribal identification card.

1 (2) The training module required by this section must include
2 information on the following aspects of tribal hunting law:

3 (a) Applicable federal treaty provisions including, but not limited
4 to, Article 5 of the treaty of Point Elliot, Article 4 of both the
5 treaty of Neah Bay and the treaty of Point No Point, and Article 3 of
6 both the treaty of Medicine Creek and the treaty of Olympia;

7 (b) Case law interpretations of treaty rights, including *State v.*
8 *Miller* (102 Wn.2d 678), *State v. Buchanan* (138 Wn.2d 186), and *State v.*
9 *Chambers* (81 Wn.2d 929);

10 (c) Tribal government status and general organization; and

11 (d) Other sources of authority and information relevant to peace
12 officers when enforcing the hunting laws and rules contained in Title
13 77 RCW and the corresponding administrative rules adopted by the fish
14 and wildlife commission.

15 (3) The training module required by this section must be updated as
16 necessary to reflect evolving case law, treaty interpretations,
17 generally accepted academic findings, agreements entered into by the
18 states and tribes, and any other relevant developments related to
19 tribal hunting law.

20 **Sec. 3.** RCW 77.04.055 and 2000 c 107 s 204 are each amended to
21 read as follows:

22 (1) In establishing policies to preserve, protect, and perpetuate
23 wildlife, fish, and wildlife and fish habitat, the commission shall
24 meet annually with the governor to:

25 (a) Review and prescribe basic goals and objectives related to
26 those policies; and

27 (b) Review the performance of the department in implementing fish
28 and wildlife policies.

29 (2)(a) The commission shall maximize fishing, hunting, and outdoor
30 recreational opportunities compatible with healthy and diverse fish and
31 wildlife populations.

32 ~~((+2))~~ (b) The commission shall establish hunting, trapping, and
33 fishing seasons and prescribe the time, place, manner, and methods that
34 may be used to harvest or enjoy game fish and wildlife.

35 (3) The commission shall establish provisions regulating food fish
36 and shellfish as provided in RCW 77.12.047.

1 (4) The commission shall have final approval authority for tribal,
2 interstate, international, and any other department agreements relating
3 to fish and wildlife.

4 (5)(a) The commission shall adopt rules to implement the state's
5 fish and wildlife laws.

6 (b) The commission shall adopt, and review and update as necessary,
7 enforcement policies and guidelines related to tribal hunting rights
8 that are based on the contents of the training module on tribal hunting
9 rights produced by the office of the attorney general under section 2
10 of this act.

11 (6) The commission shall have final approval authority for the
12 department's budget proposals.

13 (7) The commission shall select its own staff and shall appoint the
14 director of the department. The director and commission staff shall
15 serve at the pleasure of the commission.

16 **Sec. 4.** RCW 77.15.075 and 2012 c 176 s 8 are each amended to read
17 as follows:

18 (1) Fish and wildlife officers shall have and exercise, throughout
19 the state, such police powers and duties as are vested in sheriffs and
20 peace officers generally. Fish and wildlife officers are general
21 authority Washington peace officers.

22 (2) An applicant for a fish and wildlife officer position must be
23 a citizen of the United States of America who can read and write the
24 English language. Before a person may be appointed to act as a fish
25 and wildlife officer, the person shall meet the minimum standards for
26 employment with the department, including successful completion of a
27 psychological examination and polygraph examination or similar
28 assessment procedure administered in accordance with the requirements
29 of RCW 43.101.095(2).

30 (3) Any liability or claim of liability under chapter 4.92 RCW that
31 arises out of the exercise or alleged exercise of authority by a fish
32 and wildlife officer rests with the department unless the fish and
33 wildlife officer acts under the direction and control of another agency
34 or unless the liability is otherwise assumed under an agreement between
35 the department and another agency.

36 (4) The department may utilize the services of a volunteer chaplain
37 as provided under chapter 41.22 RCW.

1 (5) All fish and wildlife officers must, as part of their new
2 officer training, receive at least four hours of training related to
3 the training module on tribal hunting rights prepared by the office of
4 the attorney general under section 2 of this act and any relevant
5 policies adopted by the commission under RCW 77.04.055. This training
6 must be repeated at least once a year for every fish and wildlife
7 officer, with a focus on any recent changes to the module."

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8 On page 1, line 2 of the title, after "members;" strike the
9 remainder of the title and insert "amending RCW 77.04.055 and
10 77.15.075; adding a new section to chapter 77.15 RCW; and adding a new
11 section to chapter 43.10 RCW."

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