

# SENATE BILL REPORT

## ESSB 6041

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As Amended by House, March 5, 2014

**Title:** An act relating to fish and wildlife law enforcement.

**Brief Description:** Regarding fish and wildlife law enforcement.

**Sponsors:** Senate Committee on Natural Resources & Parks (originally sponsored by Senators Hargrove, Pearson, Rolfes, Hewitt and Sheldon; by request of Department of Fish and Wildlife).

**Brief History:**

**Committee Activity:** Natural Resources & Parks: 1/21/14, 1/30/14 [DPS].

Passed Senate: 2/18/14, 47-0.

Passed House: 3/05/14, 76-22.

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### SENATE COMMITTEE ON NATURAL RESOURCES & PARKS

**Majority Report:** That Substitute Senate Bill No. 6041 be substituted therefor, and the substitute bill do pass.

Signed by Senators Pearson, Chair; Liias, Ranking Member; Dansel, Hargrove, Hewitt, Kline and Parlette.

**Staff:** Richard Rodger (786-7401)

**Background:** The Department of Fish and Wildlife (DFW) is mandated to preserve, protect, perpetuate, and manage wildlife, and food fish, game fish, and shellfish in state waters and offshore waters. As part of this mandate, DFW is authorized to regulate many aspects of fishing, harvesting, and hunting, including the type of species, quantities taken, the transportation, sale and disposal, classification of species, and reporting requirements. Based upon articulable facts that a person is engaged in fishing, harvesting, or hunting activities, DFW officers have the authority to temporarily stop the person and check for valid licenses, tags, permits, stamps, or catch record cards, and to inspect all fish, shellfish, seaweed, and wildlife in their possession.

DFW believes that the current laws protecting the state's fish and wildlife are inadequate to deter individuals from unlawfully possessing endangered fish species, illegally interacting with orca whales, harming or harassing fish or wildlife, possessing wildlife taken illegally in another state or country, or attempting to rehabilitate sick or injured animals without a

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permit. DFW also believes that many of the definitions and terms used in its enforcement statutes should be clarified and strengthened.

**Summary of Engrossed Substitute Bill:** Existing definitions for fish buyer, to fish, and to hunt are clarified. New definitions are provided for the terms to take, to waste, unclassified wildlife, wild salmon, and wild steelhead.

The term resident is clarified to include active duty, nonretired members of the armed forces who are permanently stationed in the state or who designate Washington as their state of legal residence. Numerous other definitional and clarifying changes are made.

The crime of unlawful taking of endangered fish or wildlife is expanded from maliciously destroying to intentionally destroying eggs or nests of endangered fish or wildlife. The offense of unlawful taking of protected fish or wildlife is expanded to include when a person: (1) maliciously takes or harasses the fish or wildlife; (2) intentionally takes fish or wildlife; or (3) intentionally destroys eggs or nests.

New penalties are imposed for the death of a white sturgeon longer than 55 inches, \$2,000; any green sturgeon, \$2,000; or a wild salmon or wild steelhead, \$500. These additional penalties must be imposed, are in addition to any other current penalties, and may not be suspended, waived, modified, or deferred. The penalties are doubled if the person commits another violation that requires payment of a criminal wildlife penalty within five years or if the person took the fish with the intent of deriving an economic profit.

The fine, plus any statutory assessments, for illegal interactions with a southern resident orca whale is statutorily set at \$500. The definition of vessel is clarified for the purpose of this infraction. Vessel does not include flotation devices customarily used by swimmers.

The grandfather clause is repealed that permitted trafficking in shark fin and its derivative products which were acquired before July 22, 2011.

The statutes regulating fish and shellfish accounting are merged and clarified. Commercial fishers, direct retail sellers, and other unlicensed persons, acting in such capacity, are added to the list of those individuals who can be found guilty of unlawful catch accounting. New definitions are added for the terms receives and delivers fish or shellfish. The related statute [RCW 77.15.560] is repealed as a result of the merged provisions.

A new misdemeanor crime is created to prohibit the possession of fish, shellfish, or wildlife that the person knows was taken in violation of another state's or country's laws. Another misdemeanor crime is created for engaging in wildlife rehabilitation without a permit issued by DFW.

The Fish and Wildlife Commission may allow the Colville Tribes to issue fishing permits to nontribal members fishing on the waters of Lake Rufus Woods.

**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: Section 13 seeks to extend the penalty assessment model for certain sensitive fish species, i.e. sturgeon, to bring it in line with certain wildlife poaching models such as those for deer and elk. This bill further strengthens penalties that are currently not enough to successfully deter poachers. Section 24 deals with a state tool that can be used to prevent poaching and trafficking of illegal animals across state and international borders. This bill is similar to the interstate and foreign regulations contained in the federal Lacey Act. This bill allows for issues to be dealt with on a state level rather than relying on the federal government.

**Persons Testifying:** PRO: Steve Crown, Mike Cenci, DFW.

**House Amendment(s):** Creates an exception for the unlawful taking of eggs and nests if the action was done under a DFW permit or consistent with the federal Endangered Species Act. Requires DFW to adopt rules that specify when a citizen may capture or transport animals for rehabilitation. Removes redundancy of specifying that Washington means Washington State.