
HOUSE BILL 1849

State of Washington

63rd Legislature

2013 Regular Session

By Representatives Klippert, Hudgins, Pike, Takko, Warnick, and Van De Wege

Read first time 02/12/13. Referred to Committee on Public Safety.

1 AN ACT Relating to combining the state's natural resources law
2 enforcement efforts; amending RCW 77.15.075 and 43.12.065; reenacting
3 and amending RCW 77.08.010; creating new sections; repealing RCW
4 79.135.430; and providing an effective date.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** (1) The legislature finds that one of the
7 challenges facing the state's natural resources agencies is enforcing
8 the state's natural resources laws over vast expanses of forested,
9 wild, and undeveloped land. Effective enforcement must be carried out
10 across the entire landscape of the state, including thousands of acres
11 of state lands. Even with a large staff of enforcement personnel, the
12 task would be daunting. However, both the department of natural
13 resources and the department of fish and wildlife face constrained
14 enforcement budgets requiring an understaffed team of dedicated, hard-
15 working officers to protect both the state's critical natural resources
16 and the safety of the public.

17 (2) The legislature further finds that the state can most
18 effectively and efficiently protect the state's natural resources and
19 the recreating public by combining the enforcement authorities and

1 personnel of the department of natural resources with those of the
2 department of fish and wildlife. In particular, the existing
3 enforcement staff of the department of natural resources is far too
4 constrained to effectively respond to the challenges facing state lands
5 and would benefit greatly from a merger with the enforcement staff of
6 the department of fish and wildlife.

7 (3) It is the intent of the legislature for the merger of
8 enforcement agencies to enhance the state's enforcement capability in
9 regards to both fishing and hunting laws and laws historically enforced
10 by the department of natural resources. In carrying out this intent,
11 the legislature expects the department of fish and wildlife to take
12 seriously the new enforcement areas being given to its officers and
13 consult frequently with the commissioner of public lands to ensure that
14 the enforcement needs of the department of natural resources are being
15 satisfied.

16 **Sec. 2.** 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. Fish and wildlife officers have
22 the same enforcement authority as general authority Washington peace
23 officers, including the authority to enforce:

- 24 (a) This title;
- 25 (b) The rules of the department;
- 26 (c) Titles 76, 78, and 79 RCW, chapters 43.12 and 43.30 RCW, and
27 the rules adopted pursuant to those titles and chapters enforceable as
28 criminal or natural resources infractions; and
- 29 (d) All other statutes prescribed by the legislature.

30 (2) An applicant for a fish and wildlife officer position must be
31 a citizen of the United States of America who can read and write the
32 English language. Before a person may be appointed to act as a fish
33 and wildlife officer, the person shall meet the minimum standards for
34 employment with the department, including successful completion of a
35 psychological examination and polygraph examination or similar
36 assessment procedure administered in accordance with the requirements
37 of RCW 43.101.095(2).

1 (3) Any liability or claim of liability under chapter 4.92 RCW that
2 arises out of the exercise or alleged exercise of authority by a fish
3 and wildlife officer rests with the department unless the fish and
4 wildlife officer acts under the direction and control of another agency
5 or unless the liability is otherwise assumed under an agreement between
6 the department and another agency.

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

9 **Sec. 3.** RCW 77.08.010 and 2012 c 176 s 4 are each reenacted and
10 amended to read as follows:

11 The definitions in this section apply throughout this title or
12 rules adopted under this title unless the context clearly requires
13 otherwise.

14 (1) "Anadromous game fish buyer" means a person who purchases or
15 sells steelhead trout and other anadromous game fish harvested by
16 Indian fishers lawfully exercising fishing rights reserved by federal
17 statute, treaty, or executive order, under conditions prescribed by
18 rule of the director.

19 (2) "Angling gear" means a line attached to a rod and reel capable
20 of being held in hand while landing the fish or a hand-held line
21 operated without rod or reel.

22 (3) "Aquatic invasive species" means any invasive, prohibited,
23 regulated, unregulated, or unlisted aquatic animal or plant species as
24 defined under subsections (4), (34), (49), (53), (70), and (71) of this
25 section, aquatic noxious weeds as defined under RCW 17.26.020(5)(c),
26 and aquatic nuisance species as defined under RCW 77.60.130(1).

27 (4) "Aquatic plant species" means an emergent, submersed, partially
28 submersed, free-floating, or floating-leaving plant species that grows
29 in or near a body of water or wetland.

30 (5) "Bag limit" means the maximum number of game animals, game
31 birds, or game fish which may be taken, caught, killed, or possessed by
32 a person, as specified by rule of the commission for a particular
33 period of time, or as to size, sex, or species.

34 (6) "Building" means a private domicile, garage, barn, or public or
35 commercial building.

36 (7) "Closed area" means a place where the hunting of some or all
37 species of wild animals or wild birds is prohibited.

1 (8) "Closed season" means all times, manners of taking, and places
2 or waters other than those established by rule of the commission as an
3 open season. "Closed season" also means all hunting, fishing, taking,
4 or possession of game animals, game birds, game fish, food fish, or
5 shellfish that do not conform to the special restrictions or physical
6 descriptions established by rule of the commission as an open season or
7 that have not otherwise been deemed legal to hunt, fish, take, harvest,
8 or possess by rule of the commission as an open season.

9 (9) "Closed waters" means all or part of a lake, river, stream, or
10 other body of water, where fishing or harvesting is prohibited.

11 (10) "Commercial" means related to or connected with buying,
12 selling, or bartering.

13 (11) "Commission" means the state fish and wildlife commission.

14 (12) "Concurrent waters of the Columbia river" means those waters
15 of the Columbia river that coincide with the Washington-Oregon state
16 boundary.

17 (13) "Contraband" means any property that is unlawful to produce or
18 possess.

19 (14) "Deleterious exotic wildlife" means species of the animal
20 kingdom not native to Washington and designated as dangerous to the
21 environment or wildlife of the state.

22 (15) "Department" means the department of fish and wildlife.

23 (16) "Director" means the director of fish and wildlife.

24 (17) "Endangered species" means wildlife designated by the
25 commission as seriously threatened with extinction.

26 (18) "Ex officio fish and wildlife officer" means:

27 (a) A commissioned officer of a municipal, county, or state agency
28 having as its primary function the enforcement of criminal laws in
29 general, while the officer is acting in the respective jurisdiction of
30 that agency;

31 (b) An officer or special agent commissioned by one of the
32 following: The national marine fisheries service; the Washington state
33 parks and recreation commission; the United States fish and wildlife
34 service; (~~the Washington state department of natural resources~~) the
35 United States forest service; or the United States parks service, if
36 the agent or officer is in the respective jurisdiction of the primary
37 commissioning agency and is acting under a mutual law enforcement

1 assistance agreement between the department and the primary
2 commissioning agency;

3 (c) A commissioned fish and wildlife peace officer from another
4 state who meets the training standards set by the Washington state
5 criminal justice training commission pursuant to RCW 10.93.090,
6 43.101.080, and 43.101.200, and who is acting under a mutual law
7 enforcement assistance agreement between the department and the primary
8 commissioning agency; or

9 (d) A Washington state tribal police officer who successfully
10 completes the requirements set forth under RCW 43.101.157, is employed
11 by a tribal nation that has complied with RCW 10.92.020(2) (a) and (b),
12 and is acting under a mutual law enforcement assistance agreement
13 between the department and the tribal government.

14 (19) "Fish" includes all species classified as game fish or food
15 fish by statute or rule, as well as all fin fish not currently
16 classified as food fish or game fish if such species exist in state
17 waters. The term "fish" includes all stages of development and the
18 bodily parts of fish species.

19 (20) "Fish and wildlife officer" means a person appointed and
20 commissioned by the director, with authority to enforce this title,
21 Titles 76, 78, and 79, and chapters 43.12 and 43.30 RCW and rules
22 adopted pursuant to (~~this title~~) these titles and chapters, and other
23 statutes as prescribed by the legislature. Fish and wildlife officer
24 includes a person commissioned before June 11, 1998, as a wildlife
25 agent or a fisheries patrol officer and persons commissioned before the
26 effective date of this section as enforcement personnel of the
27 department of natural resources.

28 (21) "Fish broker" means a person whose business it is to bring a
29 seller of fish and shellfish and a purchaser of those fish and
30 shellfish together.

31 (22) "Fish buyer" means a person engaged by a wholesale fish dealer
32 to purchase food fish or shellfish from a licensed commercial fisher.

33 (23) "Fishery" means the taking of one or more particular species
34 of fish or shellfish with particular gear in a particular geographical
35 area.

36 (24) "Food, food waste, or other substance" includes human and pet
37 food or other waste or garbage that could attract large wild
38 carnivores.

1 (25) "Freshwater" means all waters not defined as saltwater
2 including, but not limited to, rivers upstream of the river mouth,
3 lakes, ponds, and reservoirs.

4 (26) "Fur-bearing animals" means game animals that shall not be
5 trapped except as authorized by the commission.

6 (27) "Fur dealer" means a person who purchases, receives, or
7 resells raw furs for commercial purposes.

8 (28) "Game animals" means wild animals that shall not be hunted
9 except as authorized by the commission.

10 (29) "Game birds" means wild birds that shall not be hunted except
11 as authorized by the commission.

12 (30) "Game farm" means property on which wildlife is held,
13 confined, propagated, hatched, fed, or otherwise raised for commercial
14 purposes, trade, or gift. The term "game farm" does not include
15 publicly owned facilities.

16 (31) "Game reserve" means a closed area where hunting for all wild
17 animals and wild birds is prohibited.

18 (32) "Illegal items" means those items unlawful to be possessed.

19 (33)(a) "Intentionally feed, attempt to feed, or attract" means to
20 purposefully or knowingly provide, leave, or place in, on, or about any
21 land or building any food, food waste, or other substance that attracts
22 or could attract large wild carnivores to that land or building.

23 (b) "Intentionally feed, attempt to feed, or attract" does not
24 include keeping food, food waste, or other substance in an enclosed
25 garbage receptacle or other enclosed container unless specifically
26 directed by a fish and wildlife officer or animal control authority to
27 secure the receptacle or container in another manner.

28 (34) "Invasive species" means a plant species or a nonnative animal
29 species that either:

30 (a) Causes or may cause displacement of, or otherwise threatens,
31 native species in their natural communities;

32 (b) Threatens or may threaten natural resources or their use in the
33 state;

34 (c) Causes or may cause economic damage to commercial or
35 recreational activities that are dependent upon state waters; or

36 (d) Threatens or harms human health.

37 (35) "Large wild carnivore" includes wild bear, cougar, and wolf.

1 (36) "License year" means the period of time for which a
2 recreational license is valid. The license year begins April 1st, and
3 ends March 31st.

4 (37) "Limited-entry license" means a license subject to a license
5 limitation program established in chapter 77.70 RCW.

6 (38) "Money" means all currency, script, personal checks, money
7 orders, or other negotiable instruments.

8 (39) "Natural person" means a human being.

9 (40)(a) "Negligently feed, attempt to feed, or attract" means to
10 provide, leave, or place in, on, or about any land or building any
11 food, food waste, or other substance that attracts or could attract
12 large wild carnivores to that land or building, without the awareness
13 that a reasonable person in the same situation would have with regard
14 to the likelihood that the food, food waste, or other substance could
15 attract large wild carnivores to the land or building.

16 (b) "Negligently feed, attempt to feed, or attract" does not
17 include keeping food, food waste, or other substance in an enclosed
18 garbage receptacle or other enclosed container unless specifically
19 directed by a fish and wildlife officer or animal control authority to
20 secure the receptacle or container in another manner.

21 (41) "Nonresident" means a person who has not fulfilled the
22 qualifications of a resident.

23 (42) "Offshore waters" means marine waters of the Pacific Ocean
24 outside the territorial boundaries of the state, including the marine
25 waters of other states and countries.

26 (43) "Open season" means those times, manners of taking, and places
27 or waters established by rule of the commission for the lawful hunting,
28 fishing, taking, or possession of game animals, game birds, game fish,
29 food fish, or shellfish that conform to the special restrictions or
30 physical descriptions established by rule of the commission or that
31 have otherwise been deemed legal to hunt, fish, take, harvest, or
32 possess by rule of the commission. "Open season" includes the first
33 and last days of the established time.

34 (44) "Owner" means the person in whom is vested the ownership
35 dominion, or title of the property.

36 (45) "Person" means and includes an individual; a corporation; a
37 public or private entity or organization; a local, state, or federal
38 agency; all business organizations, including corporations and

1 partnerships; or a group of two or more individuals acting with a
2 common purpose whether acting in an individual, representative, or
3 official capacity.

4 (46) "Personal property" or "property" includes both corporeal and
5 incorporeal personal property and includes, among other property,
6 contraband and money.

7 (47) "Personal use" means for the private use of the individual
8 taking the fish or shellfish and not for sale or barter.

9 (48) "Predatory birds" means wild birds that may be hunted
10 throughout the year as authorized by the commission.

11 (49) "Prohibited aquatic animal species" means an invasive species
12 of the animal kingdom that has been classified as a prohibited aquatic
13 animal species by the commission.

14 (50) "Protected wildlife" means wildlife designated by the
15 commission that shall not be hunted or fished.

16 (51) "Raffle" means an activity in which tickets bearing an
17 individual number are sold for not more than twenty-five dollars each
18 and in which a permit or permits are awarded to hunt or for access to
19 hunt big game animals or wild turkeys on the basis of a drawing from
20 the tickets by the person or persons conducting the raffle.

21 (52) "Recreational and commercial watercraft" includes the boat, as
22 well as equipment used to transport the boat, and any auxiliary
23 equipment such as attached or detached outboard motors.

24 (53) "Regulated aquatic animal species" means a potentially
25 invasive species of the animal kingdom that has been classified as a
26 regulated aquatic animal species by the commission.

27 (54) "Resident" has the same meaning as defined in RCW 77.08.075.

28 (55) "Retail-eligible species" means commercially harvested salmon,
29 crab, and sturgeon.

30 (56) "Saltwater" means those marine waters seaward of river mouths.

31 (57) "Seaweed" means marine aquatic plant species that are
32 dependent upon the marine aquatic or tidal environment, and exist in
33 either an attached or free floating form, and includes but is not
34 limited to marine aquatic plants in the classes Chlorophyta,
35 Phaeophyta, and Rhodophyta.

36 (58) "Senior" means a person seventy years old or older.

37 (59) "Shark fin" means a raw, dried, or otherwise processed
38 detached fin or tail of a shark.

1 (60)(a) "Shark fin derivative product" means any product intended
2 for use by humans or animals that is derived in whole or in part from
3 shark fins or shark fin cartilage.

4 (b) "Shark fin derivative product" does not include a drug approved
5 by the United States food and drug administration and available by
6 prescription only or medical device or vaccine approved by the United
7 States food and drug administration.

8 (61) "Shellfish" means those species of marine and freshwater
9 invertebrates that have been classified and that shall not be taken
10 except as authorized by rule of the commission. The term "shellfish"
11 includes all stages of development and the bodily parts of shellfish
12 species.

13 (62) "State waters" means all marine waters and fresh waters within
14 ordinary high water lines and within the territorial boundaries of the
15 state.

16 (63) "Taxidermist" means a person who, for commercial purposes,
17 creates lifelike representations of fish and wildlife using fish and
18 wildlife parts and various supporting structures.

19 (64) "To fish," "to harvest," and "to take," and their derivatives
20 means an effort to kill, injure, harass, or catch a fish or shellfish.

21 (65) "To hunt" and its derivatives means an effort to kill, injure,
22 capture, or harass a wild animal or wild bird.

23 (66) "To process" and its derivatives mean preparing or preserving
24 fish, wildlife, or shellfish.

25 (67) "To trap" and its derivatives means a method of hunting using
26 devices to capture wild animals or wild birds.

27 (68) "Trafficking" means offering, attempting to engage, or
28 engaging in sale, barter, or purchase of fish, shellfish, wildlife, or
29 deleterious exotic wildlife.

30 (69) "Unclaimed" means that no owner of the property has been
31 identified or has requested, in writing, the release of the property to
32 themselves nor has the owner of the property designated an individual
33 to receive the property or paid the required postage to effect delivery
34 of the property.

35 (70) "Unlisted aquatic animal species" means a nonnative animal
36 species that has not been classified as a prohibited aquatic animal
37 species, a regulated aquatic animal species, or an unregulated aquatic
38 animal species by the commission.

1 (71) "Unregulated aquatic animal species" means a nonnative animal
2 species that has been classified as an unregulated aquatic animal
3 species by the commission.

4 (72) "Wholesale fish dealer" means a person who, acting for
5 commercial purposes, takes possession or ownership of fish or shellfish
6 and sells, barter, or exchanges or attempts to sell, barter, or
7 exchange fish or shellfish that have been landed into the state of
8 Washington or entered the state of Washington in interstate or foreign
9 commerce.

10 (73) "Wild animals" means those species of the class Mammalia whose
11 members exist in Washington in a wild state. The term "wild animal"
12 does not include feral domestic mammals or old world rats and mice of
13 the family Muridae of the order Rodentia.

14 (74) "Wild birds" means those species of the class Aves whose
15 members exist in Washington in a wild state.

16 (75) "Wildlife" means all species of the animal kingdom whose
17 members exist in Washington in a wild state. This includes but is not
18 limited to mammals, birds, reptiles, amphibians, fish, and
19 invertebrates. The term "wildlife" does not include feral domestic
20 mammals, old world rats and mice of the family Muridae of the order
21 Rodentia, or those fish, shellfish, and marine invertebrates classified
22 as food fish or shellfish by the director. The term "wildlife"
23 includes all stages of development and the bodily parts of wildlife
24 members.

25 (76) "Wildlife meat cutter" means a person who packs, cuts,
26 processes, or stores wildlife for consumption for another for
27 commercial purposes.

28 (77) "Youth" means a person fifteen years old for fishing and under
29 sixteen years old for hunting.

30 **Sec. 4.** RCW 43.12.065 and 2011 c 320 s 16 are each amended to read
31 as follows:

32 (1) For the promotion of the public safety and the protection of
33 public property, the department of natural resources may, in accordance
34 with chapter 34.05 RCW, issue, promulgate, adopt, and ~~((enforce))~~
35 pursue the regulatory enforcement of rules pertaining to use by the
36 public of state-owned lands and property which are administered by the
37 department.

1 (2)(a) Except as otherwise provided in this subsection, a violation
2 of any rule adopted under this section is a misdemeanor.

3 (b) Except as provided in (c) of this subsection, the department
4 may specify by rule, when not inconsistent with applicable statutes,
5 that violation of such a rule is an infraction under chapter 7.84 RCW.
6 However, any violation of a rule relating to traffic including parking,
7 standing, stopping, and pedestrian offenses is a traffic infraction.

8 (c) Violation of such a rule equivalent to those provisions of
9 Title 46 RCW set forth in RCW 46.63.020 remains a misdemeanor.

10 (3) (~~The commissioner of public lands and those employees as the~~
11 ~~commissioner may designate shall be~~) Fish and wildlife officers, as
12 that term is defined in RCW 77.08.010, are vested with police powers
13 (~~when~~) and the responsibility for enforcing:

14 (a) The rules of the department (~~adopted under this section~~)
15 giving rise to criminal or natural resources infractions;

16 (b) The civil infractions created under RCW 79A.80.080; (~~or~~)

17 (c) All criminal and natural resources infractions created in this
18 chapter and chapter 43.30 RCW and Titles 76, 78, and 79 RCW; and

19 (d) The general criminal statutes or ordinances of the state or its
20 political subdivisions where enforcement is necessary for the
21 protection of state-owned lands and property.

22 (4) The commissioner of public lands may, under the provisions of
23 RCW 7.84.140, enter into an agreement allowing employees of the state
24 parks and recreation commission (~~and the department of fish and~~
25 ~~wildlife~~) to enforce certain civil infractions created under this
26 title.

27 NEW SECTION. Sec. 5. On the effective date of this section, all
28 employees of the department of natural resources assigned to law
29 enforcement as their primary duty become employees of the department of
30 fish and wildlife and are designated and commissioned as fish and
31 wildlife enforcement officers.

32 NEW SECTION. Sec. 6. RCW 79.135.430 (Seaweed--Enforcement) and
33 2005 c 155 s 717, 2003 c 334 s 444, 1994 c 286 s 3, & 1993 c 283 s 5
34 are each repealed.

1 NEW SECTION. **Sec. 7.** This act takes effect January 1, 2014.

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