

HOUSE BILL REPORT

2SHB 1118

As Reported by House Committee On: Agriculture & Natural Resources

Title: An act relating to creating cost savings by providing administrative flexibility to the department of fish and wildlife in its implementation of Title 77 RCW while not directing any changes to resource management outcomes.

Brief Description: Creating cost savings by providing administrative flexibility to the department of fish and wildlife in its implementation of Title 77 RCW while not directing any changes to resource management outcomes.

Sponsors: House Committee on General Government & Information Technology (originally sponsored by Representative Blake).

Brief History:

Committee Activity:

Agriculture & Natural Resources: 1/20/15, 2/10/15 [DPS], 1/13/16, 1/20/16 [DP3S];
General Government & Information Technology: 2/17/15, 2/24/15 [DP2S(w/o sub AGNR)].

Brief Summary of Third Substitute Bill

- Changes the nature of select requirements of the Washington Department of Fish and Wildlife (WDFW) from mandatory to permissive.
- Allows the WDFW to develop a mobile phone application.
- Clarifies and updates the distinction between migratory bird stamps and migratory bird artwork.
- Provides flexibility around some reporting requirements relating to the WDFW.
- Updates outdated citations and references.

HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

Majority Report: The third substitute bill be substituted therefor and the third substitute bill do pass. Signed by 11 members: Representatives Blake, Chair; Walkinshaw, Vice Chair;

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.

Buys, Ranking Minority Member; Dent, Assistant Ranking Minority Member; Chandler, Hurst, Lytton, Orcutt, Pettigrew, Stanford and Van De Wege.

Staff: Jason Callahan (786-7117).

Background:

The Washington Department of Fish and Wildlife.

The Washington Department of Fish and Wildlife (WDFW), under the direction of the Fish and Wildlife Commission (Commission), has been delegated the responsibility to preserve, protect, perpetuate, and manage Washington's wildlife, food fish, game fish, and shellfish. The primary direction to the WDFW in the pursuit of its mission is codified in Title 77 RCW.

Title 77 is organized in 27 different chapters. These chapters address topics such as licenses, enforcement, wildlife damage, construction projects in state waters, salmon recovery, and invasive species.

Reports and Information Dissemination.

The WDFW has a number of statutory requirements to produce reports and to otherwise disseminate information. These include annual or biennial reports on matters such as departmental operations, inventories of fish passage barriers, eastern Washington pheasant activities, habitat improvement project recommendations, regional salmon policy statements, salmon hatchery costs, surplus salmon accounting, and rockfish stock assessments.

In addition to the required reports, the WDFW is also required to disseminate information relating to wildlife viewing. This dissemination is required to occur on the WDFW's website and through direct outreach with the boating community.

Advisory Committee.

The Commission is required to maintain an advisory committee on the interests of hunters and fishers with disabilities. The advisory committee must have seven members who are appointed from the six administrative regions of the WDFW as it existed in 2007. The purpose of the committee is to advise the Commission on matters important to hunters and fishers with disabilities, such as special hunts, access to public land, and the use of modified sporting equipment.

The Commission must report to the Legislature once every four years detailing the effectiveness of the advisory committee.

Migratory Bird Permits, Stamps, and Artwork.

A \$15 migratory bird permit, which supplements a small game hunting license, is required in order to hunt for migratory birds. Revenue from the sales of the migratory bird permit is deposited in the State Wildlife Account (Account). Using hunter surveys, the WDFW must, based on a two-year average, determine the relative amounts of revenue derived from hunters

targeting only waterfowl migratory birds versus hunters targeting only non-waterfowl migratory birds. The WDFW is required to keep the two revenue streams separate and fund separate projects accordingly.

All revenue derived from the sale of migratory bird permits by the WDFW to persons hunting only waterfowl migratory birds, or to any stamp collector, may only be used for migratory waterfowl projects. Eligible projects are projects that acquire or develop migratory waterfowl habitat or enhance, protect, or propagate migratory waterfowl. With some exception, these funds may not be used for projects on lands controlled by private hunting clubs or on private lands that charge a fee for public access. The portion of revenue from non-waterfowl migratory bird hunters is used for the same types of projects that benefit non-waterfowl migratory birds.

The WDFW is also required to annually select a migratory bird stamp design and administer a program to sell collector prints and artwork containing the design. All revenue from these sales must be deposited in the Account. After production and marketing costs are deducted, the WDFW is required to use the proceeds to contract for the development of waterfowl propagation projects within Washington that provide waterfowl for the Pacific Flyway.

In 2011 two acts amended statutes related to migratory bird permits, stamps, and artwork. One act changed the name of the document required to hunt migratory birds from a migratory bird stamp or validation to a migratory bird permit, but the act did not change the statutes addressing stamps and artwork. A second act eliminated the use of the migratory waterfowl art committee to select a migratory bird stamp design and administer the program to sell collector prints and artwork using the design. That act assigned those functions to the WDFW.

Enforcement.

Title 77 is primarily enforced by the WDFW's enforcement staff. The WDFW enforces a myriad of offenses and criminal sanctions. Among those are crimes related to the unlawful hunting of wild birds and unlawful recreational fishing. A successful enforcement of the crime of unlawful recreational fishing can, on occasion, rely on the WDFW enforcement staff being able to ascertain whether the harvested salmon in question was a wild fish or a fish of hatchery origin. To do this, the adipose fin of the salmon is examined. If there is no adipose fin present, the fish is statutorily considered to be a hatchery-raised fish and not a wild fish.

The enforcement of the crime of unlawful hunting of wild birds requires the enforcement staff to review the licensing documents of the suspected violator. It is illegal to hunt wild bird without possessing, specifically, a license issued by the WDFW. The statute makes no reference to other types of permitting documents that may be issued by the WDFW, such as stamps, permits, or game tags.

Some violations of Title 77 carry with them monetary penalties that are in addition to any of the underlying criminal penalties. These monetary penalties, called criminal wildlife penalty assessments, are required to be paid by someone convicted of one of the qualifying crimes and may not be waived by the court. All hunting licenses must be revoked, and all hunting

privileges must be suspended, until the person makes full payment of all criminal wildlife penalty assessments.

Summary of Third Substitute Bill:

A series of changes are made to the statutes directing the WDFW. These changes include updating citations and references, creating reporting and account management flexibility, updating references to migratory bird stamps, providing clarity in enforced provisions, and allowing for the production of a mobile phone application.

Reporting Requirements.

The nature of a number of reports produced by the WDFW is changed. Some reports that are required to be produced by the WDFW are no longer mandated. Instead, the reporting requirements apply when the agency is requested by, depending on the report, the Commission, the Legislature, the Office of Financial Management, or a constituency group. Other reporting requirements are made more general. The reports affected by these changes include the annual fishing industry statistics report, the pheasant activity report, the habitat project list report, and the biennial salmon production cost report.

In addition, separate but linked reporting requirements regarding salmon recovery by both the WDFW and the Recreation and Conservation Office is merged into one report.

Account and Administration Flexibility.

Specific legislative direction to the WDFW is removed in a few instances. This includes allowing the WDFW to spend money generated from the sale of interpretive materials and advertising as it sees best and not necessarily for producing regulation and education materials, allowing the WDFW to disseminate wildlife viewing activities instead of mandating it, changing the direction to field test salmonid remote-site incubators from a mandate to an option, and providing the WDFW with flexibility around volunteer cooperative projects.

Mobile Phone Applications.

The WDFW is authorized to develop a mobile phone application that provides the user with content such as licensing information, harvest recording and reporting, and access to regulations and information. The authority to develop an application is permissive. If the WDFW chooses to develop an application, then the agency may charge a fee for accessing the application.

Migratory Bird Permits, Stamps, and Artwork.

A statutory distinction is provided between a migratory bird permit, which allows one to hunt migratory birds, and a piece of migratory bird artwork sold by the WDFW, which has no regulatory or licensing value. In addition, the definition of "migratory bird" is changed to

clarify that only *game* birds, including migratory waterfowl, are included in the scope of the definition.

An existing distinction between the sales of permits for waterfowl and non-waterfowl migratory birds, and how the funds generated from those sales may be spent, is dissolved. The WDFW is no longer required to distinguish between and separately account for license sales from waterfowl and non-waterfowl hunters. All revenue must still be used on projects that benefit migratory birds under the existing conditions; however, there is no longer a distinction among waterfowl and non-waterfowl projects.

As for the sale of waterfowl stamp artwork, a limitation that the WDFW may only use the revenue the sales produce for the development of waterfowl propagation projects *which specifically provide waterfowl for the Pacific Flyway*, is dissolved. All revenue, however, must still benefit waterfowl propagation projects.

Enforcement.

Enforcement staff of the WDFW are able to enforce the crime of unlawful recreational fishing during seasons that are closed to the harvest of wild salmon if a person is found in possession of a salmon that does not have a healed scar over the area where the adipose fin was once connected. Although a fish does not have an adipose fin, the lack of a healed scar allows the officer to infer its wild origins and identify it as a non-hatchery fish.

A clarification is made to the elements of the crime known as unlawful hunting of wild birds. This clarity provides that the WDFW may issue licensure documents that are in a form other than a true license, such as a tag, permit, or stamp.

A change is made regarding criminal wildlife penalty assessments specifying that any suspension or revocation of hunting licenses or privileges due to failure to pay a criminal wildlife penalty assessment is in addition to, and runs concurrently with, any other revocation or suspension required under the law.

Advisory Committee.

The Commission is authorized to appoint members to the required advisory committee on the interests of hunters and fishers with disabilities statewide, as opposed to from the six administrative regions of the WDFW as it existed in 2007. In addition, the Commission may maintain an advisory committee with less than seven members, may appoint members for a term less than four years, and is not beholden to a 60-day timeline to appoint new members. The Commission is also relieved of the requirement to report to the Legislature once every four years detailing the effectiveness of the advisory committee.

Outdated Citations and References.

A series of changes are made to Title 77 that updates citations contained within statutes that have been amended since their initial enactment. There are also updates to the names of science programs used by the WDFW, (such as the salmon stock inventory), and the deletion

of agency programs and task forces that no longer exist (such as the Forum on Monitoring Salmon Recovery and Watershed Health).

Third Substitute Bill Compared to Second Substitute Bill:

The third substitute removes three sections and amends one section that are no longer relevant due to legislation enacted in 2015; specifies that, for the purpose of the crime of unlawful recreational fishing, a salmon is not considered to be a wild salmon if it has a healed scar at the base of its adipose fin; specifies that, for the purpose of the crime of unlawful hunting of wild birds, all required WDFW licensing papers must be present and not just a license; and specifies that a hunting license under suspension due to failure to pay a criminal wildlife penalty assessment is in addition to any suspension that is required because of the underlying criminal violation.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Third Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The WDFW has sustained significant cuts to their general fund in recent years and this bill is designed to find small ways to help them do their work more efficiently and to clean up their authorizing statutes.

(Opposed) None.

Persons Testifying: Representative Blake, prime sponsor.

Persons Signed In To Testify But Not Testifying: None.