
SECOND SUBSTITUTE HOUSE BILL 1118

State of Washington 64th Legislature 2015 Regular Session

By House General Government & Information Technology (originally sponsored by Representative Blake)

READ FIRST TIME 02/27/15.

1 AN ACT Relating to creating cost savings by providing
2 administrative flexibility to the department of fish and wildlife in
3 its implementation of Title 77 RCW while not directing any changes to
4 resource management outcomes; amending RCW 77.04.012, 77.04.120,
5 77.04.150, 77.04.160, 77.12.068, 77.12.184, 77.12.360, 77.12.451,
6 77.12.670, 77.12.702, 77.12.755, 77.12.820, 77.12.880, 77.15.110,
7 77.15.245, 77.15.260, 77.15.620, 77.55.141, 77.55.241, 77.57.040,
8 77.57.060, 77.60.170, 77.65.560, 77.70.010, 77.70.210, 77.70.280,
9 77.70.360, 77.70.390, 77.85.020, 77.85.040, 77.85.130, 77.85.160,
10 77.85.220, 77.85.230, 77.95.020, 77.95.090, 77.95.190, 77.95.200,
11 77.95.230, 77.100.050, 77.100.060, and 77.115.010; reenacting and
12 amending RCW 77.08.045, 77.85.140, and 77.08.010; and repealing RCW
13 77.12.605, 77.12.690, 77.12.710, and 77.65.900.

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

15 **Sec. 1.** RCW 77.04.012 and 2000 c 107 s 2 are each amended to
16 read as follows:

17 (1) Wildlife, fish, and shellfish are the property of the state.
18 The commission, director, and the department shall preserve, protect,
19 perpetuate, and manage the wildlife and food fish, game fish, and
20 shellfish in state waters and offshore waters.

1 (2) The department shall conserve the wildlife and food fish,
2 game fish, and shellfish resources in a manner that does not impair
3 the resource. In a manner consistent with this goal, the department
4 shall seek to maintain the economic well-being and stability of the
5 fishing industry in the state. The department shall promote orderly
6 fisheries and shall enhance and improve recreational and commercial
7 fishing in this state.

8 (3) The commission may authorize the taking of wildlife, food
9 fish, game fish, and shellfish only at times or places, or in manners
10 or quantities, as in the judgment of the commission does not impair
11 the supply of these resources.

12 (4) The commission shall attempt to maximize the public
13 recreational game fishing and hunting opportunities of all citizens,
14 including juveniles, ~~((disabled))~~ individuals with disabilities, and
15 senior citizens.

16 (5) Recognizing that the management of our state wildlife, food
17 fish, game fish, and shellfish resources depends heavily on the
18 assistance of volunteers, the department shall work cooperatively
19 with volunteer groups and individuals to achieve the goals of this
20 title to the greatest extent possible.

21 (6) Nothing in this title shall be construed to infringe on the
22 right of a private property owner to control the owner's private
23 property.

24 **Sec. 2.** RCW 77.04.120 and 2000 c 107 s 3 are each amended to
25 read as follows:

26 (1) The director shall investigate the habits, supply, and
27 economic use of food fish and shellfish in state and offshore waters.

28 (2) The director shall ~~((make an annual))~~ report annually to the
29 governor on the operation of the department and ~~((the))~~ statistics
30 ~~((of))~~ relating to the fishing industry.

31 (3) Subject to RCW 40.07.040 and consistent with RCW 43.01.036,
32 the director shall provide a ~~((comprehensive))~~ biennial report of all
33 departmental operations to the ~~((chairs of the committees on natural
34 resources of the senate and house of representatives, the senate ways
35 and means committee, and the house of representatives appropriations
36 committee, including one copy to the staff of each of the committees,
37 to reflect the previous fiscal period. The format of the report shall
38 be similar to reports issued by the department from 1964-1970 and the
39 report shall include, but not be limited to, descriptions of all~~

1 ~~department activities including: Revenues generated, program costs,~~
2 ~~capital expenditures, personnel, special projects, new and ongoing~~
3 ~~research, environmental controls, cooperative projects,~~
4 ~~intergovernmental agreements, and outlines of ongoing litigation,~~
5 ~~recent court decisions and orders on major issues with the potential~~
6 ~~for state liability. The report shall describe the status of the~~
7 ~~resource and its recreational, commercial, and tribal utilization.~~
8 ~~The report shall)) legislature. The report must be made available to~~
9 the public.

10 **Sec. 3.** RCW 77.04.150 and 2008 c 294 s 1 are each amended to
11 read as follows:

12 (1) The commission must appoint an advisory committee to
13 generally represent the interests of hunters and fishers with
14 disabilities on matters including, but not limited to, special hunts,
15 modified sporting equipment, access to public land, and hunting and
16 fishing opportunities. The advisory committee ~~((is))~~ may not be
17 composed of more than seven members, each being an individual with a
18 disability. The advisory committee members must represent the entire
19 state. ~~((The members must be appointed so that each of the six~~
20 ~~department administrative regions, as they existed on January 1,~~
21 ~~2007, are represented with one resident on the advisory committee.~~
22 ~~One additional member must be appointed at large. The chair of the~~
23 ~~advisory committee must be a member of the advisory committee and~~
24 ~~shall be selected by the members of the advisory committee.))~~

25 (2) For the purposes of this section, an individual with a
26 disability includes but is not limited to:

27 (a) An individual with a permanent disability who is not
28 ambulatory over natural terrain without a prosthesis or assistive
29 device;

30 (b) An individual with a permanent disability who is unable to
31 walk without the use of assistance from a brace, cane, crutch,
32 wheelchair, scooter, walker, or other assistive device;

33 (c) An individual who has a cardiac condition to the extent that
34 the individual's functional limitations are severe;

35 (d) An individual who is restricted by lung disease to the extent
36 that the individual's functional limitations are severe;

37 (e) An individual who is totally blind or visually impaired; or

1 (f) An individual with a permanent disability with upper or lower
2 extremity impairments who does not have the use of one or both upper
3 or lower extremities.

4 (3) The members of the advisory committee are appointed for not
5 more than a four-year term. If a vacancy occurs on the advisory
6 committee prior to the expiration of a term, the commission must
7 appoint a replacement (~~((within sixty days))~~) to complete the term.

8 (4) The advisory committee must meet at least semiannually, and
9 may meet at other times as requested by a majority of the advisory
10 committee members for any express purpose that directly relates to
11 the duties set forth in subsection (1) of this section. A majority of
12 members currently serving on the advisory committee constitutes a
13 quorum. The department must provide staff support for all official
14 advisory committee meetings.

15 (5) Each member of the advisory committee shall serve without
16 compensation but may be reimbursed for travel expenses as authorized
17 in RCW 43.03.050 and 43.03.060.

18 (6) The members of the advisory committee, or individuals acting
19 on their behalf, are immune from civil liability for official acts
20 performed in the course of their duties.

21 (~~((7) Beginning December 1, 2011, and again at least once every~~
22 ~~four years, the commission shall present a report to the appropriate~~
23 ~~legislative committees detailing the effectiveness of the advisory~~
24 ~~committee including, but not limited to, the participation levels,~~
25 ~~general interest, quality of advice, and recommendations as to the~~
26 ~~advisory committee's continuance or modification.))~~

27 **Sec. 4.** RCW 77.04.160 and 2001 c 337 s 5 are each amended to
28 read as follows:

29 (1) The department shall (~~((prepare an annual))~~) annually provide
30 information to the recreation and conservation office regarding
31 surplus salmon (~~((report))~~). (~~((This report shall))~~) The information must
32 include the disposition of adult salmonids that have returned to
33 salmonid hatchery facilities operated under the jurisdiction of the
34 state that:

35 (a) Have not been harvested; and

36 (b) Were not allowed to escape for natural spawning.

37 (2) The (~~((report))~~) information shall include, by species, the
38 number and estimated weight of surplus salmon and steelhead and a

1 description of the disposition of the adult carcasses including, but
2 not limited to, the following categories:

3 (a) Disposed in landfills;

4 (b) Transferred to another government agency for reproductive
5 purposes;

6 (c) Sold to contract buyers in the round;

7 (d) Sold to contract buyers after spawning;

8 (e) Transferred to Native American tribes;

9 (f) Donated to food banks; and

10 (g) Used in stream nutrient enrichment programs.

11 (3) The ~~((report shall))~~ information must also include, by
12 species, information on the number of requests for viable salmon
13 eggs, the number of these requests that were granted and the number
14 that were denied, the geographic areas for which these requests were
15 granted or denied, and a brief explanation given for each denial of a
16 request for viable salmon eggs.

17 (4) The ~~((report shall be))~~ information provided to the
18 recreation and conservation office under this section must be
19 included in the biennial ~~((state of the salmon))~~ report ~~((required by~~
20 ~~RCW 77.85.020 and other similar state reports on salmon))~~ on the
21 statewide status of salmon recovery and watershed health required
22 under RCW 77.85.020.

23 (5) The ~~((report shall))~~ information must include an assessment
24 of the infrastructure needs and facility modifications necessary to
25 implement chapter 337, Laws of 2001.

26 **Sec. 5.** RCW 77.12.068 and 2008 c 225 s 4 are each amended to
27 read as follows:

28 (1) The department and the state parks and recreation commission
29 shall disseminate information about RCW 77.15.740, whale and wildlife
30 viewing guidelines, and other responsible wildlife viewing messages
31 to educate Washington's citizens on how to reduce the risk of
32 disturbing southern resident orca whales. ~~((The department and the~~
33 state parks and recreation commission must, at minimum, disseminate))
34 This information ~~((on their))~~ must, at a minimum, be disseminated
35 through the agencies' internet sites ~~((and through)),~~ appropriate
36 agency publications ~~((, brochures)),~~ and other information sources
37 deemed appropriate by either agency.

38 (2) The department and the state parks and recreation commission
39 ~~((shall))~~ should also attempt to reach the state's boating community

1 by coordinating with appropriate state and nongovernmental entities
2 to provide ~~((this))~~ the information pursuant to this section at
3 marinas, boat shows, boat dealers, during boating safety training
4 courses, and in conjunction with vessel registration or licensing.

5 **Sec. 6.** RCW 77.12.184 and 2009 c 333 s 31 are each amended to
6 read as follows:

7 (1) The department shall deposit all moneys received from the
8 following activities into the state wildlife account created in RCW
9 77.12.170:

10 (a) The sale of interpretive, recreational, historical,
11 educational, and informational literature and materials;

12 (b) The sale of advertisements in regulation pamphlets and other
13 appropriate mediums; ~~((and))~~

14 (c) Enrollment fees in department-sponsored educational training
15 events; and

16 (d) Fees for accessing mobile device applications, or information
17 on mobile device applications, developed by or for the department
18 that provides user content such as licensing, harvest recording and
19 reporting, and access to regulations and information.

20 ~~((Moneys collected under subsection (1) of this section shall~~
21 ~~be spent primarily for producing regulation booklets for users and~~
22 ~~for the development, production, reprinting, and distribution of~~
23 ~~informational and educational materials. The department may also~~
24 ~~spend these moneys for necessary expenses associated with training~~
25 ~~activities, and other activities as determined by the director.~~

26 ~~(3))~~ Regulation and education pamphlets may be subsidized
27 through appropriate advertising, but must be made available free of
28 charge to the users unless the information is provided through a
29 mobile device application.

30 ~~((4))~~ (3) The director may enter into joint ventures with other
31 agencies and organizations to generate revenue for providing public
32 information and education on wildlife ~~((and))~~, hunting ~~((and))~~,
33 fishing ~~((rules))~~, and recreation.

34 **Sec. 7.** RCW 77.12.360 and 1980 c 78 s 54 are each amended to
35 read as follows:

36 Upon written request of the department, the department of natural
37 resources may withdraw from lease state-owned lands described in the
38 request. The request shall bear the endorsement of the county

1 legislative authority if the lands were acquired under RCW
2 (~~76.12.030 or 76.12.080~~) 79.22.040 or 79.22.020. Withdrawals shall
3 conform to the state outdoor recreation plan. If the lands are held
4 for the benefit of the common school fund or another fund, the
5 department shall pay compensation equal to the lease value of the
6 lands to the appropriate fund.

7 **Sec. 8.** RCW 77.12.451 and 1990 c 36 s 1 are each amended to read
8 as follows:

9 (1) The director may take or remove any species of fish or
10 shellfish from the waters or beaches of the state.

11 (2) The director may sell food fish or shellfish caught or taken
12 during department test fishing operations.

13 (3) The director shall not sell inedible salmon for human
14 consumption. Salmon and carcasses may be given to state institutions
15 or schools or to economically depressed people, unless the salmon are
16 unfit for human consumption. Salmon not fit for human consumption may
17 be sold by the director for animal food, fish food, or for industrial
18 purposes.

19 (4) In the sale of surplus salmon from state hatcheries, (~~the~~
20 ~~division of purchasing shall require that~~) a portion of the surplus
21 salmon must be processed and returned to the state by the purchaser.
22 The processed salmon shall be fit for human consumption and in a form
23 suitable for distribution to individuals. The (~~division of~~
24 ~~purchasing shall establish the~~) required percentage must be set at a
25 level that does not discourage competitive bidding for the surplus
26 salmon. The measure of the percentage is the combined value of all of
27 the surplus salmon sold. The department of social and health services
28 shall distribute the processed salmon to economically depressed
29 individuals and state institutions pursuant to rules adopted by the
30 department of social and health services.

31 **Sec. 9.** RCW 77.08.045 and 2011 1st sp.s. c 21 s 17 and 2011 c
32 339 s 2 are each reenacted and amended to read as follows:

33 As used in this title or rules adopted pursuant to this title:

34 (1) "Migratory waterfowl" means members of the family Anatidae,
35 including (~~brants,~~) ducks, geese, and swans;

36 (2) "Migratory bird" means migratory game birds, including
37 migratory waterfowl and coots, snipe, doves, and band-tailed pigeon;

1 (3) "Migratory bird permit" means the permit that is required by
2 RCW 77.32.350 to be in the possession of all persons to hunt
3 migratory birds; and

4 (4) (~~("Prints and artwork")~~) "Migratory bird artwork" means the
5 stamps, prints, and other replicas of the original stamp design that
6 are sold to the general public. (~~(Prints and artwork)~~) Migratory bird
7 stamps are not to be construed to be the migratory bird permits that
8 (~~(is)~~) are required by RCW 77.32.350. (~~(Artwork may be any facsimile~~
9 ~~of the original stamp design, including color renditions, metal~~
10 ~~duplications, or any other kind of design.)~~)

11 **Sec. 10.** RCW 77.12.670 and 2011 1st sp.s. c 21 s 15 are each
12 amended to read as follows:

13 (1) (~~(Beginning July 1, 2011, the department, after soliciting~~
14 ~~recommendations from the public, shall select the design for the~~
15 ~~migratory bird stamp.~~

16 ~~(2))~~) All revenue derived from the sale of migratory bird
17 (~~(license validations or stamps by the department to any person~~
18 ~~hunting waterfowl or to any stamp collector)~~) permits shall be
19 deposited in the state wildlife account and shall be used only (~~(for~~
20 ~~that portion of the cost of printing and production of the stamps)~~)
21 for:

22 (~~(migratory waterfowl hunters as determined by subsection (4) of~~
23 ~~this section, and for those)~~)

24 (a) Migratory (~~(waterfowl)~~) bird projects specified by the
25 director of the department for the acquisition and development of
26 migratory (~~(waterfowl)~~) bird habitat in the state; and

27 (~~(for)~~) (b) The enhancement, protection, and propagation of
28 migratory (~~(waterfowl)~~) birds in the state.

29 (2) Migratory bird (~~(license validation and stamp)~~) permit funds
30 may not be used on lands controlled by private hunting clubs or on
31 private lands that charge a fee for public access. Migratory bird
32 (~~(license validation and stamp)~~) permit funds may be used for
33 migratory (~~(waterfowl)~~) bird projects on private land where public
34 hunting is provided by written permission or on areas established by
35 the department as (~~(waterfowl)~~) hunting closures.

36 (3) (~~(All revenue derived from the sale of the license validation~~
37 ~~and stamp by the department to persons hunting solely nonwaterfowl~~
38 ~~migratory birds shall be deposited in the state wildlife account and~~
39 ~~shall be used only for that portion of the cost of printing and~~

1 ~~production of the stamps for nonwaterfowl migratory bird hunters as~~
2 ~~determined by subsection (4) of this section, and for those~~
3 ~~nonwaterfowl migratory bird projects specified by the director for~~
4 ~~the acquisition and development of nonwaterfowl migratory bird~~
5 ~~habitat in the state and for the enhancement, protection, and~~
6 ~~propagation of nonwaterfowl migratory birds in the state.~~

7 ~~(4) With regard to the revenue from license validation and stamp~~
8 ~~sales that is not the result of sales to stamp collectors, the~~
9 ~~department shall determine the proportion of migratory waterfowl~~
10 ~~hunters and solely nonwaterfowl migratory bird hunters by using the~~
11 ~~yearly migratory bird hunter harvest information program survey~~
12 ~~results or, in the event that these results are not available, other~~
13 ~~similar survey results. A two-year average of the most recent survey~~
14 ~~results shall be used to determine the proportion of the revenue~~
15 ~~attributed to migratory waterfowl hunters and the proportion~~
16 ~~attributed to solely nonwaterfowl migratory bird hunters for each~~
17 ~~fiscal year. For fiscal year 1998-99 and for fiscal year 1999-2000,~~
18 ~~ninety six percent of the stamp revenue shall be attributed to~~
19 ~~migratory waterfowl hunters and four percent of the stamp revenue~~
20 ~~shall be attributed to solely nonwaterfowl migratory game hunters.~~

21 ~~(5)) Acquisition shall include but not be limited to the~~
22 ~~acceptance of gifts of real estate or any interest therein or the~~
23 ~~rental, lease, or purchase of real estate or any interest therein. If~~
24 ~~the department acquires any fee interest, leasehold, or rental~~
25 ~~interest in real property under this section, it shall allow the~~
26 ~~general public reasonable access to that property and shall, if~~
27 ~~appropriate, ensure that the deed or other instrument creating the~~
28 ~~interest allows such access to the general public. If the department~~
29 ~~obtains a covenant in real property in its favor or an easement or~~
30 ~~any other interest in real property under this section, it shall~~
31 ~~exercise its best efforts to ensure that the deed or other instrument~~
32 ~~creating the interest grants to the general public in the form of a~~
33 ~~covenant running with the land reasonable access to the property. The~~
34 ~~private landowner from whom the department obtains such a covenant or~~
35 ~~easement shall retain the right of granting access to the lands by~~
36 ~~written permission, but may not charge a fee for access.~~

37 ~~((6) The department may produce migratory bird stamps in any~~
38 ~~given year in excess of those necessary for sale in that year. The~~
39 ~~excess stamps may be sold to the public.))~~

1 (4) The selection of the annual migratory bird artwork design and
2 the administration, sale, distribution, and other matters relating to
3 the artwork is the responsibility of the department. The department
4 may contract with an appropriate individual or nonprofit organization
5 for selection of the annual migratory bird artwork design and the
6 administration, sale, distribution, and other matters relating to
7 migratory bird artwork.

8 (5) The costs of producing and marketing artwork may be paid out
9 of the total amount brought in from sales of artwork. The remaining
10 amount may only be used to contract with one or more appropriate
11 individuals or nonprofit organizations for the development of
12 waterfowl propagation projects within Washington. The department may
13 not contract with any individual or organization that obtains
14 compensation for allowing waterfowl hunting except if the individual
15 or organization does not require compensation for hunting on the
16 subject property.

17 **Sec. 11.** RCW 77.12.702 and 2007 c 442 s 2 are each amended to
18 read as follows:

19 (1) The department is directed to develop and implement a
20 rockfish research and stock assessment program. Using funds from the
21 rockfish research account created in subsection (2) of this section,
22 the department must conduct Puget Sound basin and coastal surveys
23 ~~((with new and existing technology))~~ to estimate the current
24 abundance and future recovery of rockfish populations and other
25 groundfish species. The stock assessment must include an evaluation
26 of the potential for marine fish enhancement. ~~((Beginning December~~
27 ~~2008, and every two years thereafter,))~~ The department shall report
28 to ~~((the appropriate committees of))~~ the legislature, consistent with
29 RCW 43.01.036, on the status of the stock assessment program every
30 two years.

31 (2) The rockfish research account is created in the custody of
32 the state treasurer. All receipts from surcharges assessed on
33 commercial and recreational fishing licenses for the purposes of
34 rockfish research must be deposited into the account. Expenditures
35 from the account may be used only for rockfish research, including
36 stock assessments. Only the director of the department or the
37 director's designee may authorize expenditures from the account. The
38 account is subject to allotment procedures under chapter 43.88 RCW,
39 but an appropriation is not required for expenditures.

1 **Sec. 12.** RCW 77.12.755 and 2003 c 311 s 10 are each amended to
2 read as follows:

3 (1) In coordination with the department of natural resources and
4 lead entity groups, the department must establish a ranked inventory
5 of fish passage barriers on land owned by small forest landowners
6 based on the principle of fixing the worst first within a watershed
7 consistent with the fish passage priorities of the forest and fish
8 report.

9 (2) In implementing this section, the department shall first
10 gather and synthesize all available existing information about the
11 locations and impacts of fish passage barriers in Washington. This
12 information must include, but not be limited to, the most recently
13 available limiting factors analysis conducted pursuant to RCW
14 77.85.060(2), the stock status information contained in the
15 department (~~(of fish and wildlife)~~) salmonid stock inventory
16 (~~(SASSI)~~) (SaSI), the salmon and steelhead habitat inventory and
17 assessment project (SSHIAP), and any comparable science-based
18 assessment when available.

19 (3) The inventory of fish passage barriers developed under this
20 section must be kept reasonably current (~~(and at a minimum be updated~~
21 ~~by the beginning of each calendar year))~~ as the director of the
22 department determines funding allows.

23 (4) Nothing in this section grants the department or others
24 additional right of entry onto private property.

25 **Sec. 13.** RCW 77.12.820 and 2009 c 333 s 52 are each amended to
26 read as follows:

27 (1) The eastern Washington pheasant enhancement account is
28 created in the custody of the state treasurer. All receipts under RCW
29 77.12.810 must be deposited in the account. Moneys in the account are
30 subject to legislative appropriation and shall be used for the
31 purpose of funding (~~(the)~~) an eastern Washington pheasant enhancement
32 program.

33 (2) The department may use moneys from the eastern Washington
34 pheasant enhancement account to improve pheasant habitat (~~(or)~~) to
35 purchase or produce pheasants(~~(. The department must)~~), and to
36 continue to release rooster pheasants in eastern Washington. The
37 eastern Washington pheasant enhancement account funds (~~(must)~~) may
38 not be used for the purchase of land.

1 (3) The eastern Washington pheasant enhancement account may be
2 used to offer grants to improve pheasant habitat on public or private
3 lands that are open to public hunting.

4 (4) The department may enter partnerships with private
5 landowners, nonprofit corporations, cooperative groups, and federal
6 or state agencies for the purposes of pheasant habitat enhancement in
7 areas that will be available for public hunting.

8 (5) The department shall (~~submit an annual report to the~~
9 ~~appropriate committees of the legislature by December 1st~~) make
10 information regarding the department's eastern Washington pheasant
11 activities available upon request.

12 **Sec. 14.** RCW 77.12.880 and 2003 c 153 s 3 are each amended to
13 read as follows:

14 The department shall, when deemed appropriate by the department,
15 manage wildlife programs in a manner that provides for public
16 opportunities to view wildlife and supports nature-based and wildlife
17 viewing tourism without impairing the state's wildlife resources.

18 **Sec. 15.** RCW 77.15.110 and 2012 c 176 s 13 are each amended to
19 read as follows:

20 (1) For purposes of this chapter, a person acts for commercial
21 purposes if the person engages in conduct that relates to commerce in
22 fish, seaweed, shellfish, or wildlife or any parts thereof.
23 Commercial conduct may include taking, delivering, selling, buying,
24 or trading fish, seaweed, shellfish, or wildlife where there is
25 present or future exchange of money, goods, or any valuable
26 consideration. Evidence that a person acts for commercial purposes
27 includes, but is not limited to, the following conduct:

28 (a) Using gear typical of that used in commercial fisheries;

29 (b) Exceeding the bag or possession limits for personal use by
30 taking or possessing more than three times the amount of fish,
31 seaweed, shellfish, or wildlife allowed;

32 (c) Delivering or attempting to deliver fish, seaweed, shellfish,
33 or wildlife to a person who sells or resells fish, seaweed,
34 shellfish, or wildlife including any licensed or unlicensed
35 wholesaler;

36 (d) Taking fish or shellfish using a vessel designated on a
37 commercial fishery license or using gear not authorized in a personal
38 use fishery;

1 (e) Using a commercial fishery license;

2 (f) Selling or dealing in raw furs for a fee or in exchange for
3 goods or services;

4 (g) Performing taxidermy service on fish, shellfish, or wildlife
5 belonging to another person for a fee or receipt of goods or
6 services; or

7 (h) Packs, cuts, processes, or stores the meat of wildlife for
8 consumption, for a fee or in exchange for goods or services.

9 (2) For purposes of this chapter, the value of any fish, seaweed,
10 shellfish, or wildlife may be proved based on evidence of legal or
11 illegal sales involving the person charged or any other person, of
12 offers to sell or solicitation of offers to sell by the person
13 charged or by any other person, or of any market price for the fish,
14 seaweed, shellfish, or wildlife including market price for farm-
15 raised game animals. The value assigned to specific fish, seaweed,
16 shellfish, or wildlife by RCW 77.15.420 or 77.15.370 may be presumed
17 to be the value of such fish, seaweed, shellfish, or wildlife. It is
18 not relevant to proof of value that the person charged misrepresented
19 that the fish, seaweed, shellfish, or wildlife was taken in
20 compliance with law if the fish, seaweed, shellfish, or wildlife was
21 unlawfully taken and had no lawful market value.

22 **Sec. 16.** RCW 77.15.245 and 2005 c 107 s 1 are each amended to
23 read as follows:

24 (1) Notwithstanding the provisions of RCW 77.12.240,
25 (~~77.36.020~~), 77.36.030, or any other provisions of law, it is
26 unlawful to take, hunt, or attract black bear with the aid of bait.

27 (a) Nothing in this subsection shall be construed to prohibit the
28 killing of black bear with the aid of bait by employees or agents of
29 county, state, or federal agencies while acting in their official
30 capacities for the purpose of protecting livestock, domestic animals,
31 private property, or the public safety.

32 (b) Nothing in this subsection shall be construed to prevent the
33 establishment and operation of feeding stations for black bear in
34 order to prevent damage to commercial timberland.

35 (c) Nothing in this subsection shall be construed to prohibit the
36 director from issuing a permit or memorandum of understanding to a
37 public agency, university, or scientific or educational institution
38 for the use of bait to attract black bear for scientific purposes.

1 (d) As used in this subsection, "bait" means a substance placed,
2 exposed, deposited, distributed, scattered, or otherwise used for the
3 purpose of attracting black bears to an area where one or more
4 persons hunt or intend to hunt them.

5 (2) Notwithstanding RCW 77.12.240, (~~77.36.020,~~) 77.36.030, or
6 any other provisions of law, it is unlawful to hunt or pursue black
7 bear, cougar, bobcat, or lynx with the aid of a dog or dogs.

8 (a) Nothing in this subsection shall be construed to prohibit the
9 killing of black bear, cougar, bobcat, or lynx with the aid of a dog
10 or dogs by employees or agents of county, state, or federal agencies
11 while acting in their official capacities for the purpose of
12 protecting livestock, domestic animals, private property, or the
13 public safety. A dog or dogs may be used by the owner or tenant of
14 real property consistent with a permit issued and conditioned by the
15 director.

16 (b) Nothing in this subsection shall be construed to prohibit the
17 director from issuing a permit or memorandum of understanding to a
18 public agency, university, or scientific or educational institution
19 for the use of a dog or dogs for the pursuit, capture and relocation,
20 of black bear, cougar, bobcat, or lynx for scientific purposes.

21 (c) Nothing in this subsection shall be construed to prohibit the
22 director from issuing a permit or memorandum of understanding to a
23 public agency, university, or scientific or educational institution
24 for the use of a dog or dogs for the killing of black bear, cougar,
25 or bobcat, for the protection of a state and/or federally listed
26 threatened or endangered species.

27 (3)(a) Notwithstanding subsection (2) of this section, the
28 commission shall authorize the use of dogs only in selected areas
29 within a game management unit to address a public safety need
30 presented by one or more cougar. This authority may only be exercised
31 after the commission has determined that no other practical
32 alternative to the use of dogs exists, and after the commission has
33 adopted rules describing the conditions in which dogs may be used.
34 Conditions that may warrant the use of dogs within a game management
35 unit include, but are not limited to, confirmed cougar/human safety
36 incidents, confirmed cougar/livestock and cougar/pet depredations,
37 and the number of cougar capture attempts and relocations.

38 (b) The department shall post on their internet web site the
39 known details of all reported cougar/human, cougar/pet, or cougar/
40 livestock interactions within ten days of receiving the report. The

1 posted material must include, but is not limited to, the location and
2 time of all reported sightings, and the known details of any cougar/
3 livestock incidents.

4 (4) A person who violates subsection (1) or (2) of this section
5 is guilty of a gross misdemeanor. In addition to appropriate criminal
6 penalties, the department shall revoke the hunting license of a
7 person who violates subsection (1) or (2) of this section and order
8 the suspension of wildlife hunting privileges for a period of five
9 years following the revocation. Following a subsequent violation of
10 subsection (1) or (2) of this section by the same person, a hunting
11 license shall not be issued to the person at any time.

12 **Sec. 17.** RCW 77.15.260 and 2012 c 176 s 19 are each amended to
13 read as follows:

14 (1) A person is guilty of unlawful trafficking in fish,
15 shellfish, or wildlife in the second degree if the person traffics in
16 fish, shellfish, or wildlife with a wholesale value of less than two
17 hundred fifty dollars and:

18 (a) The fish, shellfish, or wildlife is classified as game, food
19 fish, shellfish, game fish, or protected wildlife and the trafficking
20 is not authorized by statute or department rule; or

21 (b) The fish, shellfish, or wildlife is unclassified and the
22 trafficking violates any department rule.

23 (2)(a) A person is guilty of unlawful trafficking in fish,
24 shellfish, or wildlife in the first degree if the person commits the
25 act described by subsection (1) of this section and:

26 (i) The fish, shellfish, or wildlife has a value of two hundred
27 fifty dollars or more; or

28 (ii) The fish, shellfish, or wildlife is designated as an
29 endangered species or deleterious exotic wildlife and such
30 trafficking is not authorized by any statute or department rule.

31 (b) For purposes of this subsection (2), whenever any series of
32 transactions that constitute unlawful trafficking would, when
33 considered separately, constitute unlawful trafficking in the second
34 degree due to the value of the fish, shellfish, or wildlife, and the
35 series of transactions are part of a common scheme or plan, then the
36 transactions may be aggregated in one count and the sum of the value
37 of all the transactions considered when determining the degree of
38 unlawful trafficking involved.

1 (3)(a) Unlawful trafficking in fish, shellfish, or wildlife in
2 the second degree is a class C felony.

3 (b) Unlawful trafficking in fish, shellfish, or wildlife in the
4 first degree is a class B felony.

5 **Sec. 18.** RCW 77.15.620 and 2012 c 176 s 30 are each amended to
6 read as follows:

7 (1) A person is guilty of engaging in fish dealing activity
8 without a license in the second degree if the person:

9 (a) Engages in the commercial processing of fish or shellfish,
10 including custom canning or processing of personal use fish or
11 shellfish and does not hold a wholesale dealer's license required by
12 RCW 77.65.280(1)(a) or 77.65.480 for anadromous game fish, or a
13 direct retail endorsement under RCW 77.65.510;

14 (b) Engages in the wholesale selling, buying, or brokering of
15 food fish or shellfish and does not hold a wholesale dealer's or
16 buying license required by RCW 77.65.280(~~(+2)~~) (1)(b) or 77.65.480
17 for anadromous game fish;

18 (c) Is a fisher who lands and sells his or her catch or harvest
19 in the state to anyone other than a licensed wholesale dealer within
20 or outside the state and does not hold a direct retail endorsement
21 required by RCW 77.65.510; or

22 (d) Engages in the commercial manufacture or preparation of
23 fertilizer, oil, meal, caviar, fish bait, or other by-products from
24 food fish or shellfish and does not hold a wholesale dealer's license
25 required by RCW 77.65.280(~~(+4)~~) (1)(d) or 77.65.480 for anadromous
26 game fish.

27 (2) A person is guilty of engaging in fish dealing activity
28 without a license in the first degree if the person commits the act
29 described by subsection (1) of this section and the violation
30 involves fish or shellfish worth two hundred fifty dollars or more.

31 (3)(a) Engaging in fish dealing activity without a license in the
32 second degree is a gross misdemeanor.

33 (b) Engaging in fish dealing activity without a license in the
34 first degree is a class C felony.

35 **Sec. 19.** RCW 77.55.141 and 2010 c 210 s 28 are each amended to
36 read as follows:

1 (1) In order to protect the property of marine waterfront
2 shoreline owners it is necessary to facilitate issuance of permits
3 for bulkheads or rockwalls under certain conditions.

4 (2) The department shall issue a permit with or without
5 conditions within forty-five days of receipt of a complete and
6 accurate application which authorizes commencement of construction,
7 replacement, or repair of a marine beach front protective bulkhead or
8 rockwall for single-family type residences or property under the
9 following conditions:

10 (a) The waterward face of a new bulkhead or rockwall shall be
11 located only as far waterward as is necessary to excavate for
12 footings or place base rock for the structure and under no conditions
13 shall be located more than six feet waterward of the ordinary high
14 water line;

15 (b) Any bulkhead or rockwall to replace or repair an existing
16 bulkhead or rockwall shall be placed along the same alignment as the
17 bulkhead or rockwall it is replacing. However, the replaced or
18 repaired bulkhead or rockwall may be placed waterward of and directly
19 abutting the existing structure only in cases where removal of the
20 existing bulkhead or rockwall would result in environmental
21 degradation or removal problems related to geological, engineering,
22 or safety considerations; (~~and~~)

23 (c) Construction of a new bulkhead or rockwall, or replacement or
24 repair of an existing bulkhead or rockwall waterward of the existing
25 structure shall not result in the permanent loss of critical food
26 fish or shellfish habitats; and

27 (d) Timing constraints shall be applied on a case-by-case basis
28 for the protection of critical habitats, including but not limited to
29 migration corridors, rearing and feeding areas, and spawning
30 habitats, for the proper protection of fish life.

31 (3) Any bulkhead or rockwall construction, replacement, or repair
32 not meeting the conditions in this section shall be processed under
33 this chapter in the same manner as any other application.

34 (4) Any person aggrieved by the approval, denial, conditioning,
35 or modification of a permit under this section may appeal the
36 decision as provided in RCW 77.55.021(~~(+4)~~) (8).

37 **Sec. 20.** RCW 77.55.241 and 2010 c 210 s 30 are each amended to
38 read as follows:

1 (1) The legislature finds that the construction of hydraulic
2 projects may require mitigation for the protection of fish life, and
3 that the mitigation may be most cost-effective and provide the most
4 benefit to the fish resource if the mitigation is allowed to be
5 applied in locations that are off-site of the hydraulic project
6 location. The department may approve off-site mitigation plans that
7 are submitted by permit applicants.

8 (2) If a permit applicant proposes off-site mitigation and the
9 department does not approve the permit or conditions the permit in
10 such a manner as to render off-site mitigation unpracticable, the
11 project proponent may appeal the decision as provided in RCW
12 77.55.021(~~((4))~~) (8).

13 **Sec. 21.** RCW 77.57.040 and 2000 c 107 s 14 are each amended to
14 read as follows:

15 If the director determines that a fishway or fish guard described
16 in RCW (~~((77.55.040 and 77.55.060))~~) 77.57.010 and 77.57.030 and in
17 existence on September 1, 1963, is inadequate, in addition to other
18 authority granted in this chapter, the director may remove, relocate,
19 reconstruct, or modify the device, without cost to the owner. The
20 director shall not materially modify the amount of flow of water
21 through the device. After the department has completed the
22 improvements, the fishways and fish guards shall be operated and
23 maintained at the expense of the owner in accordance with RCW
24 (~~((77.55.040 and 77.55.060))~~) 77.57.010 and 77.57.030.

25 **Sec. 22.** RCW 77.57.060 and 2001 c 253 s 21 are each amended to
26 read as follows:

27 The director may authorize removal, relocation, reconstruction,
28 or other modification of an inadequate fishway or fish protective
29 device required by RCW (~~((77.55.320))~~) 77.57.070 which device was in
30 existence on September 1, 1963, without cost to the owner for
31 materials and labor. The modification may not materially alter the
32 amount of water flowing through the fishway or fish protective
33 device. Following modification, the fishway or fish protective device
34 shall be maintained at the expense of the person or governmental
35 agency owning the obstruction or water diversion device.

36 **Sec. 23.** RCW 77.60.170 and 2008 c 202 s 1 are each amended to
37 read as follows:

1 (1)(a) The department shall transfer the funds required by RCW
2 77.60.160 to the appropriate local governments. Pacific and Grays
3 Harbor counties and Puget Sound shall manage their established
4 shellfish—on-site sewage grant program. The local governments, in
5 consultation with the department of health, shall use the provided
6 funds as grants or loans to individuals for repairing or improving
7 their on-site sewage systems. The grants or loans may be provided
8 only in areas that have the potential to adversely affect water
9 quality in commercial and recreational shellfish growing areas.

10 (b) A recipient of a grant or loan shall enter into an agreement
11 with the appropriate local government to maintain the improved on-
12 site sewage system according to specifications required by the local
13 government.

14 (c) The department shall work closely with local governments and
15 it shall be the goal of the department to attain geographic equity
16 between Grays Harbor, Willapa Bay, and Puget Sound when making funds
17 available under this program.

18 (d) For the purposes of this subsection, "geographic equity"
19 means issuing on-site sewage grants or loans at a level that matches
20 the funds generated from the oyster reserve lands in that area.

21 (2) In Puget Sound, the local governments shall give first
22 priority to areas that are:

23 (a) Identified as "areas of special concern" under WAC
24 246-272-01001 as it existed on January 1, 2001;

25 (b) Included within a shellfish protection district under chapter
26 90.72 RCW; or

27 (c) Identified as a marine recovery area under chapter 70.118A
28 RCW.

29 (3) In Grays Harbor and Pacific counties, the local governments
30 shall give first priority to preventing the deterioration of water
31 quality in areas where commercial or recreational shellfish are
32 grown.

33 (4) The department and each participating local government shall
34 enter into a memorandum of understanding that will establish an
35 applicant income eligibility requirement for individual grant
36 applicants from within the jurisdiction and other mutually agreeable
37 terms and conditions of the grant program.

38 ~~((5) For the 2007-2009 biennium, from the funds received under~~
39 ~~this section, Pacific county shall transfer up to two hundred~~
40 ~~thousand dollars to the department. Upon receiving the funds from~~

1 ~~Pacific county, the department and the appropriate oyster reserve~~
2 ~~advisory committee under RCW 77.60.160 shall identify and execute~~
3 ~~specific research projects with those funds.))~~

4 **Sec. 24.** RCW 77.65.560 and 2013 c 314 s 1 are each amended to
5 read as follows:

6 (1) Any application for a food fish guide license under RCW
7 77.65.370 or game fish guide license under RCW 77.65.480 must
8 include:

9 (a) The applicant's driver's license or other government-issued
10 identification card number and the jurisdiction of issuance;

11 (b) The applicant's unified business identifier number under a
12 ((master)) business license issued under RCW 19.02.070;

13 (c) Proof of current certification in first aid and
14 cardiopulmonary resuscitation;

15 (d) A certificate of insurance demonstrating that the applicant
16 has commercial liability coverage of at least three hundred thousand
17 dollars; and

18 (e) If applicable, an original or notarized copy of a valid
19 license issued by the United States coast guard to the applicant that
20 authorizes the holder to carry passengers for hire.

21 (2) The requirements of this section related to licensure by the
22 United States coast guard apply only to applicants intending to carry
23 passengers for hire with a motorized vessel on federally recognized
24 navigable waters. The license issued by the United States coast guard
25 must be valid in the waters where the game fish guide or food fish
26 guide license applicant will be carrying passengers for hire in a
27 motorized vessel.

28 (3) The requirements in this section are in addition to the
29 requirements of RCW 77.65.050.

30 **Sec. 25.** RCW 77.70.010 and 2001 c 253 s 57 are each amended to
31 read as follows:

32 (1) A license renewed under the provisions of this chapter that
33 has been suspended under RCW 77.65.080 shall be subject to the
34 following provisions:

35 (a) A license renewal fee shall be paid as a condition of
36 maintaining a current license; and

1 (b) The department shall waive any other license requirements,
2 unless the department determines that the license holder has had
3 sufficient opportunity to meet these requirements.

4 (2) The provisions of subsection (1) of this section shall apply
5 only to a license that has been suspended under RCW 77.65.080 for a
6 period of twelve months or less. A license holder shall forfeit a
7 license subject to this chapter and may not recover any license
8 renewal fees previously paid if the license holder does not meet the
9 requirements of RCW 74.20A.320(~~((9))~~) (3) within twelve months of
10 license suspension.

11 **Sec. 26.** RCW 77.70.210 and 2000 c 107 s 70 are each amended to
12 read as follows:

13 (1) A herring spawn on kelp fishery license is required to
14 commercially take herring eggs which have been deposited on
15 vegetation of any type.

16 (2) A herring spawn on kelp fishery license may be issued only to
17 a person who:

18 (a) Holds a herring fishery license issued under RCW 77.65.200
19 and 77.70.120; and

20 (b) Is the highest bidder in an auction conducted under
21 subsection (3) of this section.

22 (3) The department shall sell herring spawn on kelp commercial
23 fishery licenses at auction to the highest bidder. Bidders shall
24 identify their sources of kelp. Kelp harvested from state-owned
25 aquatic lands as defined in RCW (~~((79.90.465))~~) 79.105.060 requires the
26 written consent of the department of natural resources. The
27 department shall give all holders of herring fishery licenses thirty
28 days' notice of the auction.

29 **Sec. 27.** RCW 77.70.280 and 2003 c 174 s 5 are each amended to
30 read as follows:

31 (1) A person shall not commercially fish for coastal crab in
32 Washington state waters without a Dungeness crab—coastal or a
33 Dungeness crab—coastal class B fishery license. Gear used must
34 consist of one buoy attached to each crab pot. Each crab pot must be
35 fished individually.

36 (2) A Dungeness crab—coastal fishery license is transferable.
37 Except as provided in subsections (3) and (8) of this section, such a

1 license shall only be issued to a person who proved active historical
2 participation in the coastal crab fishery by having designated, after
3 December 31, 1993, a vessel or a replacement vessel on the qualifying
4 license that singly or in combination meets the following criteria:

5 (a) Made a minimum of eight coastal crab landings totaling a
6 minimum of five thousand pounds per season in at least two of the
7 four qualifying seasons identified in subsection (5) of this section,
8 as documented by valid Washington state shellfish receiving tickets;
9 and showed historical and continuous participation in the coastal
10 crab fishery by having held one of the following licenses or their
11 equivalents each calendar year beginning 1990 through 1993, and was
12 designated on the qualifying license of the person who held one of
13 the following licenses in 1994:

14 (i) Crab pot—Non-Puget Sound license, issued under RCW
15 77.65.220(1)(b);

16 (ii) Nonsalmon delivery license, issued under RCW 77.65.210;

17 (iii) Salmon troll license, issued under RCW 77.65.160;

18 (iv) Salmon delivery license, issued under RCW 77.65.170;

19 (v) Food fish trawl license, issued under RCW 77.65.200; or

20 (vi) Shrimp trawl license, issued under RCW 77.65.220; or

21 (b) Made a minimum of four Washington landings of coastal crab
22 totaling two thousand pounds during the period from December 1, 1991,
23 to March 20, 1992, and made a minimum of eight crab landings totaling
24 a minimum of five thousand pounds of coastal crab during each of the
25 following periods: December 1, 1991, to September 15, 1992; December
26 1, 1992, to September 15, 1993; and December 1, 1993, to September
27 15, 1994. For landings made after December 31, 1993, the vessel shall
28 have been designated on the qualifying license of the person making
29 the landings; or

30 (c) Made any number of coastal crab landings totaling a minimum
31 of twenty thousand pounds per season in at least two of the four
32 qualifying seasons identified in subsection (5) of this section, as
33 documented by valid Washington state shellfish receiving tickets,
34 showed historical and continuous participation in the coastal crab
35 fishery by having held one of the qualifying licenses each calendar
36 year beginning 1990 through 1993, and the vessel was designated on
37 the qualifying license of the person who held that license in 1994.

38 (3) A Dungeness crab-coastal fishery license shall be issued to a
39 person who had a new vessel under construction between December 1,
40 1988, and September 15, 1992, if the vessel made coastal crab

1 landings totaling a minimum of five thousand pounds by September 15,
2 1993, and the new vessel was designated on the qualifying license of
3 the person who held that license in 1994. All landings shall be
4 documented by valid Washington state shellfish receiving tickets.
5 (~~License applications under this subsection may be subject to review~~
6 ~~by the advisory review board in accordance with RCW 77.70.030.~~) For
7 purposes of this subsection, "under construction" means either:

8 (a)(i) A contract for any part of the work was signed before
9 September 15, 1992; and

10 (ii) The contract for the vessel under construction was not
11 transferred or otherwise alienated from the contract holder between
12 the date of the contract and the issuance of the Dungeness crab-
13 coastal fishery license; and

14 (iii) Construction had not been completed before December 1,
15 1988; or

16 (b)(i) The keel was laid before September 15, 1992; and

17 (ii) Vessel ownership was not transferred or otherwise alienated
18 from the owner between the time the keel was laid and the issuance of
19 the Dungeness crab-coastal fishery license; and

20 (iii) Construction had not been completed before December 1,
21 1988.

22 (4) A Dungeness crab—coastal class B fishery license is not
23 transferable. Such a license shall be issued to persons who do not
24 meet the qualification criteria for a Dungeness crab—coastal fishery
25 license, if the person has designated on a qualifying license after
26 December 31, 1993, a vessel or replacement vessel that, singly or in
27 combination, made a minimum of four landings totaling a minimum of
28 two thousand pounds of coastal crab, documented by valid Washington
29 state shellfish receiving tickets, during at least one of the four
30 qualifying seasons, and if the person has participated continuously
31 in the coastal crab fishery by having held or by having owned a
32 vessel that held one or more of the licenses listed in subsection (2)
33 of this section in each calendar year subsequent to the qualifying
34 season in which qualifying landings were made through 1994. Dungeness
35 crab—coastal class B fishery licenses cease to exist after December
36 31, 1999, and the continuing license provisions of RCW 34.05.422(3)
37 are not applicable.

38 (5) The four qualifying seasons for purposes of this section are:

39 (a) December 1, 1988, through September 15, 1989;

1 (b) December 1, 1989, through September 15, 1990;

2 (c) December 1, 1990, through September 15, 1991; and

3 (d) December 1, 1991, through September 15, 1992.

4 (6) For purposes of this section and RCW 77.70.340, "coastal
5 crab" means Dungeness crab (*cancer magister*) taken in all Washington
6 territorial and offshore waters south of the United States-Canada
7 boundary and west of the Bonilla-Tatoosh line (a line from the
8 western end of Cape Flattery to Tatoosh Island lighthouse, then to
9 the buoy adjacent to Duntz Rock, then in a straight line to Bonilla
10 Point of Vancouver island), Grays Harbor, Willapa Bay, and the
11 Columbia river.

12 (7) For purposes of this section, "replacement vessel" means a
13 vessel used in the coastal crab fishery in 1994, and that replaces a
14 vessel used in the coastal crab fishery during any period from 1988
15 through 1993, and which vessel's licensing and catch history,
16 together with the licensing and catch history of the vessel it
17 replaces, qualifies a single applicant for a Dungeness crab—coastal
18 or Dungeness crab—coastal class B fishery license. A Dungeness crab—
19 coastal or Dungeness crab—coastal class B fishery license may only be
20 issued to a person who designated a vessel in the 1994 coastal crab
21 fishery and who designated the same vessel in 1995.

22 (8) A Dungeness crab—coastal fishery license may not be issued to
23 a person who participates in the federal fleet reduction program
24 created in RCW 77.70.460 within ten years of that person's
25 participation in the federal program, if reciprocal restrictions are
26 imposed by the states of Oregon and California on persons
27 participating in the federal fleet reduction program.

28 **Sec. 28.** RCW 77.70.360 and 2000 c 107 s 81 are each amended to
29 read as follows:

30 (~~Except as provided under RCW 77.70.380,~~) The director shall
31 issue no new Dungeness crab-coastal fishery licenses after December
32 31, 1995. A person may renew an existing license only if the person
33 held the license sought to be renewed during the previous year or
34 acquired the license by transfer from someone who held it during the
35 previous year, and if the person has not subsequently transferred the
36 license to another person. Where the person failed to obtain the
37 license during the previous year because of a license suspension, the
38 person may qualify for a license by establishing that the person held

1 such a license during the last year in which the license was not
2 suspended.

3 **Sec. 29.** RCW 77.70.390 and 2000 c 107 s 83 are each amended to
4 read as follows:

5 The director may reduce the landing requirements established
6 under RCW 77.70.280 (~~upon the recommendation of an advisory review~~
7 ~~board established under RCW 77.70.030~~), but the director may not
8 entirely waive the landing requirement. (~~The advisory review board~~
9 ~~may recommend a reduction of the landing requirement in individual~~
10 ~~eases if in the advisory review board's judgment, extenuating~~
11 ~~circumstances prevented achievement of the landing requirement.~~) The
12 director shall adopt rules (~~governing the operation of the advisory~~
13 ~~review board and~~) defining "extenuating circumstances." Extenuating
14 circumstances may include situations in which a person had a vessel
15 under construction such that qualifying landings could not be made.
16 In defining extenuating circumstances, special consideration shall be
17 given to individuals who can provide evidence of lack of access to
18 capital based on past discrimination due to race, creed, color, sex,
19 national origin, or disability.

20 **Sec. 30.** RCW 77.85.020 and 2009 c 345 s 4 are each amended to
21 read as follows:

22 (1) (~~Beginning December 2010,~~) (a) The recreation and
23 conservation office shall produce a biennial report on the statewide
24 status of salmon recovery and watershed health, summarize projects
25 and programs funded by the salmon recovery funding board, and
26 summarize progress as measured by high-level indicators and state
27 agency compliance with applicable protocols established by the forum
28 for monitoring salmon recovery and watershed health. The report must
29 be a consolidation of (~~the current~~) all similar reporting
30 activities, including the salmon recovery funding board and the
31 (~~forum on monitoring salmon recovery and watershed health, on the~~
32 ~~status of salmon recovery and watershed health in Washington state,~~
33 ~~in accordance with RCW 77.85.250(8)~~) department under RCW 77.04.160.

34 (b) The report required under this section shall also include a
35 high-level status report on watershed planning efforts under chapter
36 90.82 RCW as summarized by the department of ecology and on salmon
37 recovery and watershed planning as summarized by the Puget Sound
38 partnership. The report's introduction must include a list of high-

1 level questions related to the status of watershed health and salmon
2 recovery to help decision makers and the public respond to salmon
3 recovery and watershed health management needs.

4 (2) The department, the department of ecology, the department of
5 natural resources, and the state conservation commission shall
6 provide to the recreation and conservation office information
7 requested by the office necessary to prepare the consolidated report
8 on salmon recovery and watershed health.

9 **Sec. 31.** RCW 77.85.040 and 2007 c 444 s 4 are each amended to
10 read as follows:

11 (1)(a) The governor may request the Washington academy of
12 sciences, when organized pursuant to chapter 305, Laws of 2005, to
13 impanel an independent science panel on salmon recovery to respond to
14 requests for review pursuant to subsection (2) of this section. The
15 panel shall reflect expertise in habitat requirements of salmon,
16 protection and restoration of salmon populations, artificial
17 propagation of salmon, hydrology, or geomorphology.

18 (b) Based upon available funding, the governor's salmon recovery
19 office may contract for services of the independent science panel for
20 compensation under chapter (~~39.29~~) 39.26 RCW.

21 (2) The independent science panel shall be governed by guidelines
22 and practices governing the activities of the Washington academy of
23 sciences. The purpose of the independent science panel is to help
24 ensure that sound science is used in salmon recovery efforts. The
25 governor's salmon recovery office may, during the time it is
26 constituted, request that the panel review, investigate, and provide
27 its findings on scientific questions relating to the state's salmon
28 recovery efforts. The science panel does not have the authority to
29 review individual projects or habitat project lists developed under
30 RCW 77.85.050 or 77.85.060 or to make policy decisions. The panel
31 shall submit its findings and recommendations under this subsection
32 to the legislature and the governor.

33 **Sec. 32.** RCW 77.85.130 and 2011 c 20 s 16 are each amended to
34 read as follows:

35 (1) The salmon recovery funding board shall develop procedures
36 and criteria for allocation of funds for salmon habitat projects and
37 salmon recovery activities on a statewide basis to address the
38 highest priorities for salmon habitat protection and restoration. To

1 the extent practicable the board shall adopt an annual allocation of
2 funding. The allocation should address both protection and
3 restoration of habitat, and should recognize the varying needs in
4 each area of the state on an equitable basis. The board has the
5 discretion to partially fund, or to fund in phases, salmon habitat
6 projects. The board may annually establish a maximum amount of
7 funding available for any individual project, subject to available
8 funding. No projects required solely as a mitigation or a condition
9 of permitting are eligible for funding.

10 (2)(a) In evaluating, ranking, and awarding funds for projects
11 and activities the board shall give preference to projects that:

12 (i) Are based upon the limiting factors analysis identified under
13 RCW 77.85.060;

14 (ii) Provide a greater benefit to salmon recovery based upon the
15 stock status information contained in the department (~~of fish and~~
16 ~~wildlife~~) salmonid stock inventory (~~(SASSI)~~) (SaSI), the salmon
17 and steelhead habitat inventory and assessment project (SSHIAP), and
18 any comparable science-based assessment when available;

19 (iii) Will benefit listed species and other fish species;

20 (iv) Will preserve high quality salmonid habitat;

21 (v) Are included in a regional or watershed-based salmon recovery
22 plan that accords the project, action, or area a high priority for
23 funding;

24 (vi) Are, except as provided in RCW 77.85.240, sponsored by an
25 entity that is a Puget Sound partner, as defined in RCW 90.71.010;
26 and

27 (vii) Are projects referenced in the action agenda developed by
28 the Puget Sound partnership under RCW 90.71.310.

29 (b) In evaluating, ranking, and awarding funds for projects and
30 activities the board shall also give consideration to projects that:

31 (i) Are the most cost-effective;

32 (ii) Have the greatest matched or in-kind funding;

33 (iii) Will be implemented by a sponsor with a successful record
34 of project implementation;

35 (iv) Involve members of the Washington conservation corps
36 established in chapter 43.220 RCW or the veterans conservation corps
37 established in RCW 43.60A.150; and

38 (v) Are part of a regionwide list developed by lead entities.

39 (3) The board may reject, but not add, projects from a habitat
40 project list submitted by a lead entity for funding.

1 (4)(a) The board shall establish criteria for determining when
2 block grants may be made to a lead entity. The board may provide
3 block grants to the lead entity to implement habitat project lists
4 developed under RCW 77.85.050, subject to available funding. The
5 board shall determine an equitable minimum amount of project funds
6 for each recovery region, and shall distribute the remainder of funds
7 on a competitive basis. The board may also provide block grants to
8 the lead entity or regional recovery organization to assist in
9 carrying out functions described under this chapter. Block grants
10 must be expended consistent with the priorities established for the
11 board in subsection (2) of this section.

12 (b) Lead entities or regional recovery organizations receiving
13 block grants under this subsection shall provide an annual report to
14 the board summarizing how funds were expended for activities
15 consistent with this chapter, including the types of projects funded,
16 project outcomes, monitoring results, and administrative costs.

17 (5) The board may waive or modify portions of the allocation
18 procedures and standards adopted under this section in the award of
19 grants or loans to conform to legislative appropriations directing an
20 alternative award procedure or when the funds to be awarded are from
21 federal or other sources requiring other allocation procedures or
22 standards as a condition of the board's receipt of the funds. The
23 board shall develop an integrated process to manage the allocation of
24 funding from federal and state sources to minimize delays in the
25 award of funding while recognizing the differences in state and
26 legislative appropriation timing.

27 (6) The board may award a grant or loan for a salmon recovery
28 project on private or public land when the landowner has a legal
29 obligation under local, state, or federal law to perform the project,
30 when expedited action provides a clear benefit to salmon recovery,
31 and there will be harm to salmon recovery if the project is delayed.
32 For purposes of this subsection, a legal obligation does not include
33 a project required solely as a mitigation or a condition of
34 permitting.

35 (7) Property acquired or improved by a project sponsor may be
36 conveyed to a federal agency if: (a) The agency agrees to comply with
37 all terms of the grant or loan to which the project sponsor was
38 obligated; or (b) the board approves: (i) Changes in the terms of the
39 grant or loan, and the revision or removal of binding deed of right
40 instruments; and (ii) a memorandum of understanding or similar

1 document ensuring that the facility or property will retain, to the
2 extent feasible, adequate habitat protections; and (c) the
3 appropriate legislative authority of the county or city with
4 jurisdiction over the project area approves the transfer and provides
5 notification to the board.

6 (8) Any project sponsor receiving funding from the salmon
7 recovery funding board that is not subject to disclosure under
8 chapter 42.56 RCW must, as a mandatory contractual prerequisite to
9 receiving the funding, agree to disclose any information in regards
10 to the expenditure of that funding as if the project sponsor was
11 subject to the requirements of chapter 42.56 RCW.

12 (9) (~~After January 1, 2010,~~) Any project designed to address
13 the restoration of Puget Sound may be funded under this chapter only
14 if the project is not in conflict with the action agenda developed by
15 the Puget Sound partnership under RCW 90.71.310.

16 **Sec. 33.** RCW 77.85.140 and 2009 c 518 s 9 and 2009 c 345 s 8 are
17 each reenacted and amended to read as follows:

18 (1) Habitat project lists shall be submitted to the salmon
19 recovery funding board for funding at least once a year on a schedule
20 established by the board. (~~The board shall provide the legislature
21 with a list of the proposed projects and a list of the projects
22 funded by October 1st of each year for informational purposes.~~)
23 Project sponsors who complete salmon habitat projects approved for
24 funding from habitat project lists and have met grant application
25 deadlines will be paid by the salmon recovery funding board within
26 thirty days of project completion.

27 (2) The recreation and conservation office shall track all funds
28 allocated for salmon habitat projects and salmon recovery activities
29 on behalf of the board, including both funds allocated by the board
30 and funds allocated by other state or federal agencies for salmon
31 recovery or water quality improvement.

32 **Sec. 34.** RCW 77.85.160 and 1999 sp.s. c 13 s 13 are each amended
33 to read as follows:

34 State salmon monitoring data provided by lead entities, regional
35 fisheries enhancement groups, and others shall be included in the
36 database of (~~SASSI [salmon and steelhead stock inventory]~~) SaSI
37 (salmonid stock inventory) and SSHIAP (~~(+)~~)(salmon and steelhead
38 habitat inventory assessment project(+)). Information pertaining to

1 habitat preservation projects funded through the Washington wildlife
2 and recreation program, the conservation reserve enhancement program,
3 and other conservancy programs related to salmon habitat shall be
4 included in the SSHIAP database.

5 **Sec. 35.** RCW 77.85.220 and 2003 c 391 s 4 are each amended to
6 read as follows:

7 ~~((1))~~ If a limiting factors analysis has been conducted under
8 this chapter for a specific geographic area and that analysis shows
9 insufficient intertidal salmon habitat, the department of fish and
10 wildlife and the county legislative authorities of the affected
11 counties may jointly initiate a salmon intertidal habitat restoration
12 planning process to develop a plan that addresses the intertidal
13 habitat goals contained in the limiting factors analysis. The fish
14 and wildlife commission and the county legislative authorities of the
15 geographic area shall ~~((jointly appoint a task force composed of the
16 following members:~~

17 ~~(a) One representative of the fish and wildlife commission,
18 appointed by the chair of the commission;~~

19 ~~(b) Two representatives of the agricultural industry familiar
20 with agricultural issues in the geographic area, one appointed by an
21 organization active in the geographic area and one appointed by a
22 statewide organization representing the industry;~~

23 ~~(c) Two representatives of environmental interest organizations
24 with familiarity and expertise of salmon habitat, one appointed by an
25 organization in the geographic area and one appointed by a statewide
26 organization representing environmental interests;~~

27 ~~(d) One representative of a diking and drainage district,
28 appointed by the individual districts in the geographic area or by an
29 association of diking and drainage districts;~~

30 ~~(e) One representative of the lead entity for salmon recovery in
31 the geographic area, appointed by the lead entity;~~

32 ~~(f) One representative of each county in the geographic area,
33 appointed by the respective county legislative authorities; and~~

34 ~~(g) One representative from the office of the governor.~~

35 ~~(2) Representatives of the United States environmental protection
36 agency, the United States natural resources conservation service,
37 federal fishery agencies, as appointed by their regional director,
38 and tribes with interests in the geographic area shall be invited and
39 encouraged to participate as members of the task force.~~

1 ~~(3) The task force shall elect a chair and adopt rules for~~
2 ~~conducting the business of the task force. Staff support for the task~~
3 ~~force shall be provided by the Washington state conservation~~
4 ~~commission.~~

5 ~~(4) The task force shall:~~

6 ~~(a)) work together with interested stakeholders to:~~

7 ~~(1) Review and analyze the limiting factors analysis for the~~
8 ~~geographic area;~~

9 ~~((b)) (2) Initiate and oversee intertidal salmon habitat~~
10 ~~studies for enhancement of the intertidal area as provided in RCW~~
11 ~~77.85.230;~~

12 ~~((c)) (3) Review and analyze the completed assessments listed~~
13 ~~in RCW 77.85.230;~~

14 ~~((d)) (4) Develop and draft an overall plan that addresses~~
15 ~~identified intertidal salmon habitat goals that has public support;~~
16 ~~and~~

17 ~~((e)) (5) Identify appropriate demonstration projects and early~~
18 ~~implementation projects that are of high priority and should commence~~
19 ~~immediately within the geographic area.~~

20 ~~((5) The task force may request briefings as needed on legal~~
21 ~~issues that may need to be considered when developing or implementing~~
22 ~~various plan options.~~

23 ~~(6) Members of the task force shall be reimbursed by the~~
24 ~~conservation commission for travel expenses as provided in RCW~~
25 ~~43.03.050 and 43.03.060.~~

26 ~~(7) The task force shall provide annual reports that provide an~~
27 ~~update on its activities to the fish and wildlife commission, to the~~
28 ~~involved county legislative authorities, and to the lead entity~~
29 ~~formed under this chapter.))~~

30 **Sec. 36.** RCW 77.85.230 and 2009 c 333 s 24 are each amended to
31 read as follows:

32 (1) ~~((In consultation with the appropriate task force formed~~
33 ~~under RCW 77.85.220,))~~ The conservation commission may contract with
34 universities, private consultants, nonprofit groups, or other
35 entities to assist it in developing a plan incorporating the
36 following elements:

37 (a) An inventory of existing tide gates located on streams in the
38 county. The inventory shall include location, age, type, and
39 maintenance history of the tide gates and other factors as determined

1 by the appropriate task force in consultation with the county and
2 diking and drainage districts;

3 (b) An assessment of the role of tide gates located on streams in
4 the county; the role of intertidal fish habitat for various life
5 stages of salmon; the quantity and characterization of intertidal
6 fish habitat currently accessible to fish; the quantity and
7 characterization of the present intertidal fish habitat created at
8 the time the dikes and outlets were constructed; the quantity of
9 potential intertidal fish habitat on public lands and alternatives to
10 enhance this habitat; the effects of saltwater intrusion on
11 agricultural land, including the effects of backfeeding of saltwater
12 through the underground drainage system; the role of tide gates in
13 drainage systems, including relieving excess water from saturated
14 soil and providing reservoir functions between tides; the effect of
15 saturated soils on production of crops; the characteristics of
16 properly functioning intertidal fish habitat; a map of agricultural
17 lands designated by the county as having long-term commercial
18 significance and the effect of that designation; and the economic
19 impacts to existing land uses for various alternatives for tide gate
20 alteration; and

21 (c) A long-term plan for intertidal salmon habitat enhancement to
22 meet the goals of salmon recovery and protection of agricultural
23 lands. The proposal shall consider all other means to achieve salmon
24 recovery without converting farmland. The proposal shall include
25 methods to increase fish passage and otherwise enhance intertidal
26 habitat on public lands pursuant to subsection (2) of this section,
27 voluntary methods to increase fish passage on private lands, a
28 priority list of intertidal salmon enhancement projects, and
29 recommendations for funding of high priority projects. The task force
30 also may propose pilot projects that will be designed to test and
31 measure the success of various proposed strategies.

32 (2) In conjunction with other public landowners (~~and the~~
33 ~~appropriate task force formed under RCW 77.85.220~~), the department
34 shall develop an initial salmon intertidal habitat enhancement plan
35 for public lands in the county. The initial plan shall include a list
36 of public properties in the intertidal zone that could be enhanced
37 for salmon, a description of how those properties could be altered to
38 support salmon, a description of costs and sources of funds to
39 enhance the property, and a strategy and schedule for prioritizing
40 the enhancement of public lands for intertidal salmon habitat. (~~This~~

1 ~~initial plan shall be submitted to the appropriate task force at~~
2 ~~least six months before the deadline established in subsection (3) of~~
3 ~~this section.)~~

4 (3) ~~((The final intertidal salmon enhancement plan shall be~~
5 ~~completed within two years from the date the task force is formed~~
6 ~~under RCW 77.85.220 and funding has been secured.))~~ A final plan
7 shall be submitted ~~((by the appropriate task force))~~ to the lead
8 entity for the geographic area established under this chapter.

9 **Sec. 37.** RCW 77.95.020 and 1995 1st sp.s. c 2 s 34 are each
10 amended to read as follows:

11 (1) The commission shall ~~((develop))~~ maintain long-term regional
12 policy statements regarding the salmon fishery resources ~~((before~~
13 ~~December 1, 1985))~~. The commission shall consider the following in
14 formulating and updating regional policy statements:

- 15 (a) Existing resource needs;
- 16 (b) Potential for creation of new resources;
- 17 (c) Successful existing programs, both within and outside the
18 state;
- 19 (d) Balanced utilization of natural and hatchery production;
- 20 (e) Desires of the fishing interest;
- 21 (f) Need for additional data or research;
- 22 (g) Federal court orders; and
- 23 (h) Salmon advisory council recommendations.

24 (2) The commission shall review and update each policy statement
25 ~~((at least once each year))~~ as needed.

26 **Sec. 38.** RCW 77.95.090 and 2009 c 340 s 4 are each amended to
27 read as follows:

28 (1) The dedicated regional fisheries enhancement group account is
29 created in the custody of the state treasurer. Only the commission or
30 the commission's designee may authorize expenditures from the
31 account. The account is subject to allotment procedures under chapter
32 43.88 RCW, but no appropriation is required for expenditures.

33 (2) A portion of each recreational fishing license fee shall be
34 used as provided in RCW 77.32.440. A surcharge of one hundred dollars
35 shall be collected on each commercial salmon fishery license, each
36 salmon delivery license, and each salmon charter license sold in the
37 state. All receipts shall be placed in the regional fisheries
38 enhancement group account and shall be used exclusively for regional

1 fisheries enhancement group projects (~~for the purposes of RCW~~
2 ~~77.95.110~~). Except as provided in RCW 77.95.320, funds from the
3 regional fisheries enhancement group account shall not serve as
4 replacement funding for department operated salmon projects that
5 exist on January 1, 1991.

6 (3) All revenue from the department's sale of salmon carcasses
7 and eggs that return to group facilities shall be deposited in the
8 regional fisheries enhancement group account for use by the regional
9 fisheries enhancement group that produced the surplus. The commission
10 shall adopt rules to implement this section pursuant to chapter 34.05
11 RCW.

12 **Sec. 39.** RCW 77.95.190 and 2010 1st sp.s. c 7 s 84 are each
13 amended to read as follows:

14 The department (~~shall~~) may field test coho and chinook salmon
15 remote site incubators. The purpose of field testing efforts shall be
16 to gather conclusive scientific data on the effectiveness of coho and
17 chinook remote site incubators.

18 **Sec. 40.** RCW 77.95.200 and 2009 c 333 s 29 are each amended to
19 read as follows:

20 (1) The department (~~shall~~) may develop and implement a program
21 utilizing remote site incubators in Washington (~~state~~). If used,
22 the program (~~shall~~) must identify sites in tributaries that are
23 suitable for reestablishing self-sustaining, locally adapted
24 populations of coho, chum, or chinook salmon. The initial selection
25 of sites shall be updated annually.

26 (2) The department may only approve a remote site incubator
27 project if the department deems it is consistent with the
28 conservation of wild salmon and trout. The department shall only
29 utilize appropriate salmonid eggs in remote site incubators, and may
30 acquire eggs by gift or purchase.

31 (3) The department shall depend chiefly upon volunteer efforts to
32 implement (~~the~~) a remote site incubator program through volunteer
33 cooperative projects and the regional fisheries enhancement groups.
34 The department may prioritize remote site incubator projects within
35 regional enhancement areas.

36 (4) The department may purchase remote site incubators and may
37 use agency employees to construct remote site incubators.

1 (5) The department (~~shall~~) may investigate the use of the
2 remote site incubator technology for the production of warm water
3 fish.

4 (6) (~~Annual~~) Reports on the progress of the program shall be
5 provided to the fish and wildlife commission as requested.

6 **Sec. 41.** RCW 77.95.230 and 1989 c 336 s 2 are each amended to
7 read as follows:

8 The director shall determine the cost of operating all state-
9 funded salmon production facilities at full capacity and shall
10 provide this information with the department's biennial budget
11 request if so requested by the office of financial management.

12 **Sec. 42.** RCW 77.100.050 and 2001 c 337 s 3 are each amended to
13 read as follows:

14 (1) The department shall, when deemed needed by the department:

15 (a) Encourage and support the establishment of cooperative
16 agreements for the development and operation of cooperative food
17 fish, shellfish, game fish, game bird, game animal, and nongame
18 wildlife projects, and projects which provide an opportunity for
19 volunteer groups to become involved in resource and habitat-oriented
20 activities. All cooperative projects shall be fairly considered in
21 the approval of cooperative agreements;

22 (b) Identify regions and species or activities that would be
23 particularly suitable for cooperative projects providing benefits
24 compatible with department goals;

25 (c) Determine the availability of rearing space at operating
26 facilities or of net pens, egg boxes, portable rearing containers,
27 incubators, and any other rearing facilities for use in cooperative
28 projects, and allocate them to volunteer groups as fairly as
29 possible;

30 (d) Make viable eggs available for replenishing fish runs, and
31 salmon carcasses for nutrient enhancement of streams. If a regional
32 fisheries enhancement group, lead entity, volunteer cooperative
33 group, federally approved tribe in Washington, or a governmental
34 hatchery in Washington, Oregon, or Idaho requests the department for
35 viable eggs, the department must include the request within the brood
36 stock document prepared for review by the regional offices. The eggs
37 shall be distributed in accordance with the priority established in
38 RCW 77.95.210 if they are available. A request for viable eggs may

1 only be denied if the eggs would not be useful for propagation or
2 salmon recovery purposes, as determined under RCW 77.95.210;

3 (e) Exempt volunteer groups from payment of fees to the
4 department for activities related to the project;

5 (f) Publicize the cooperative program(~~(+)~~).

6 (~~(+g)~~) (2) The department may not substitute a new cooperative
7 project for any part of the department's program unless mutually
8 agreeable to the department and volunteer group(~~(+~~

9 ~~(h)~~) and the department may not approve agreements that are
10 incompatible with legally existing land, water, or property rights.

11 (~~(+2)~~) (3) The department may, when requested, provide to
12 volunteer groups its available professional expertise and assist the
13 volunteer group to evaluate its project. The department must, if
14 requested or deemed helpful by the department, conduct annual
15 workshops in each administrative region of the department that has
16 fish stocks listed as threatened or endangered under the federal
17 endangered species act, 16 U.S.C. Sec. 1531 et seq., in order to
18 assist volunteer groups with egg rearing, share information on
19 successful salmon recovery projects accomplished by volunteers within
20 the state, and provide basic training on monitoring efforts that can
21 be accomplished by volunteers in order to help determine if their
22 efforts are successful.

23 **Sec. 43.** RCW 77.100.060 and 2001 c 337 s 4 are each amended to
24 read as follows:

25 The commission shall establish by rule:

26 (1) The procedure for entering a cooperative agreement and the
27 application forms for a permit to release fish or wildlife (~~(required~~
28 ~~by RCW 77.12.457)~~). The procedure shall indicate the information
29 required from the volunteer group as well as the process of review by
30 the department. The process of review shall include the means to
31 coordinate with other agencies and Indian tribes when appropriate and
32 to coordinate the review of any necessary hydraulic permit approval
33 applications.

34 (2) The procedure for providing within forty-five days of receipt
35 of a proposal a written response to the volunteer group indicating
36 the date by which an acceptance or rejection of the proposal can be
37 expected, the reason why the date was selected, and a written summary
38 of the process of review. The response should also include any
39 suggested modifications to the proposal which would increase its

1 likelihood of approval and the date by which such modified proposal
2 could be expected to be accepted. If the proposal is rejected, the
3 department must provide in writing the reasons for rejection. The
4 volunteer group may request the director or the director's designee
5 to review information provided in the response.

6 (3) The priority of the uses to which eggs, seed, juveniles, or
7 brood stock are put. Use by cooperative projects shall be second in
8 priority only to the needs of programs of the department or of other
9 public agencies within the territorial boundaries of the state. Sales
10 of eggs, seed, juveniles, or brood stock have a lower priority than
11 use for cooperative projects. The rules must identify and implement
12 appropriate protocols for brood stock handling, including the
13 outplanting of adult fish, spawning, incubation, rearing, and release
14 and establish a prioritized schedule for implementation of chapter
15 337, Laws of 2001, and shall include directives for allowing more
16 hatchery salmon to spawn naturally in areas where progeny of hatchery
17 fish have spawned, including the outplanting of adult fish, in order
18 to increase the number of viable salmon eggs and restore healthy
19 numbers of fish within the state.

20 (4) The procedure for the director to notify a volunteer group
21 that the agreement for the project is being revoked for cause and the
22 procedure for revocation. Revocation shall be documented in writing
23 to the volunteer group. Cause for revocation may include: (a) The
24 unavailability of adequate biological or financial resources; (b) the
25 development of unacceptable biological or resource management
26 conflicts; or (c) a violation of agreement provisions. Notice of
27 cause to revoke for a violation of agreement provisions may specify a
28 reasonable period of time within which the volunteer group must
29 comply with any violated provisions of the agreement.

30 (5) An appropriate method of distributing among volunteer groups
31 fish, bird, or animal food or other supplies available for the
32 program.

33 **Sec. 44.** RCW 77.115.010 and 2000 c 107 s 122 are each amended to
34 read as follows:

35 (1) The director of agriculture and the director shall jointly
36 develop a program of disease inspection and control for aquatic
37 farmers as defined in RCW 15.85.020. The program shall be
38 administered by the department under rules established under this
39 section. The purpose of the program is to protect the aquaculture

1 industry and wildstock fisheries from a loss of productivity due to
2 aquatic diseases or maladies. As used in this section "diseases"
3 means, in addition to its ordinary meaning, infestations of parasites
4 or pests.

5 (2) The disease program may include, but is not limited to, the
6 following elements:

7 (a) Disease diagnosis;

8 (b) Import and transfer requirements;

9 (c) Provision for certification of stocks;

10 (d) Classification of diseases by severity;

11 (e) Provision for treatment of selected high-risk diseases;

12 (f) Provision for containment and eradication of high-risk
13 diseases;

14 (g) Provision for destruction of diseased cultured aquatic
15 products;

16 (h) Provision for quarantine of diseased cultured aquatic
17 products;

18 (i) Provision for coordination with state and federal agencies;

19 (j) Provision for development of preventative or control
20 measures;

21 (k) Provision for cooperative consultation service to aquatic
22 farmers; and

23 (l) Provision for disease history records.

24 ~~((+2))~~ (3) The commission shall adopt rules implementing this
25 section. However, such rules shall have the prior approval of the
26 director of agriculture and shall provide therein that the director
27 of agriculture has provided ~~((such))~~ approval. The director of
28 agriculture or the director's designee shall attend the rule-making
29 hearings conducted under chapter 34.05 RCW and shall assist in
30 conducting those hearings. The authorities granted the department by
31 these rules and by RCW 77.12.047(1)(g), 77.60.060, 77.60.080,
32 77.65.210, ~~((77.115.020,))~~ 77.115.030, and 77.115.040 constitute the
33 only authorities of the department to regulate private sector
34 cultured aquatic products and aquatic farmers as defined in RCW
35 15.85.020. Except as provided in subsection ~~((+3))~~ (4) of this
36 section, no action may be taken against any person to enforce these
37 rules unless the department has first provided the person an
38 opportunity for a hearing. In such a case, if the hearing is
39 requested, no enforcement action may be taken before the conclusion
40 of that hearing.

1 ~~((3))~~ (4) The rules adopted under this section shall specify
2 the emergency enforcement actions that may be taken by the
3 department, and the circumstances under which they may be taken,
4 without first providing the affected party with an opportunity for a
5 hearing. Neither the provisions of this subsection nor the provisions
6 of subsection ~~((2))~~ (3) of this section shall preclude the
7 department from requesting the initiation of criminal proceedings for
8 violations of the disease inspection and control rules.

9 ~~((4))~~ (5) A person shall not violate the rules adopted under
10 subsection ~~((2) or)~~ (3) or (4) of this section or violate RCW
11 77.115.040.

12 ~~((5))~~ (6) In administering the program established under this
13 section, the department shall use the services of a pathologist
14 licensed to practice veterinary medicine.

15 ~~((6))~~ (7) The director in administering the program shall not
16 place constraints on or take enforcement actions in respect to the
17 aquaculture industry that are more rigorous than those placed on the
18 department or other fish-rearing entities.

19 **Sec. 45.** RCW 77.08.010 and 2014 c 48 s 1 and 2014 c 202 s 301
20 are each reenacted and amended to read as follows:

21 The definitions in this section apply throughout this title or
22 rules adopted under this title unless the context clearly requires
23 otherwise.

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

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

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

36 (4) "Building" means a private domicile, garage, barn, or public
37 or commercial building.

38 (5) "Closed area" means a place where the hunting of some or all
39 species of wild animals or wild birds is prohibited.

1 (6)(a) "Closed season" means all times, manners of taking, and
2 places or waters other than those established by rule of the
3 commission as an open season.

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

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

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

14 (9) "Commission" means the state fish and wildlife commission.

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

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

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

23 (13) "Department" means the department of fish and wildlife.

24 (14) "Director" means the director of the department of fish and
25 wildlife.

26 (15) "Endangered species" means wildlife designated by the
27 commission as seriously threatened with extinction.

28 (16) "Ex officio fish and wildlife officer" means:

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

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

1 a mutual law enforcement assistance agreement between the department
2 and the primary 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
8 primary 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
11 employed by a tribal nation that has complied with RCW 10.92.020(2)
12 (a) and (b), and is acting under a mutual law enforcement assistance
13 agreement between the department and the tribal government.

14 (17) "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 (18) "Fish and wildlife officer" means a person appointed and
20 commissioned by the director, with authority to enforce this title
21 and rules adopted pursuant to this title, and other statutes as
22 prescribed by the legislature. Fish and wildlife officer includes a
23 person commissioned before June 11, 1998, as a wildlife agent or a
24 fisheries patrol officer.

25 (19) "Fish broker" means a person whose business it is to bring a
26 seller of fish and shellfish and a purchaser of those fish and
27 shellfish together.

28 (20) "Fish buyer" means:

29 (a) A wholesale fish dealer or a retail seller who directly
30 receives fish or shellfish from a commercial fisher or receives fish
31 or shellfish in interstate or foreign commerce; or

32 (b) A person engaged by a wholesale fish dealer who receives fish
33 or shellfish from a commercial fisher.

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

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

1 (23) "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 (24) "Fur-bearing animals" means game animals that shall not be
5 trapped except as authorized by the commission.

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

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

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

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

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

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

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

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

29 (32) "Large wild carnivore" includes wild bear, cougar, and wolf.

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

33 (34) "Limited-entry license" means a license subject to a license
34 limitation program established in chapter 77.70 RCW.

35 (35) "Money" means all currency, script, personal checks, money
36 orders, or other negotiable instruments.

37 (36) "Natural person" means a human being.

38 (37)(a) "Negligently feed, attempt to feed, or attract" means to
39 provide, leave, or place in, on, or about any land or building any
40 food, food waste, or other substance that attracts or could attract

1 large wild carnivores to that land or building, without the awareness
2 that a reasonable person in the same situation would have with regard
3 to the likelihood that the food, food waste, or other substance could
4 attract large wild carnivores to the land or building.

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

10 (38) "Nonresident" means a person who has not fulfilled the
11 qualifications of a resident.

12 (39) "Offshore waters" means marine waters of the Pacific Ocean
13 outside the territorial boundaries of the state, including the marine
14 waters of other states and countries.

15 (40) "Open season" means those times, manners of taking, and
16 places or waters established by rule of the commission for the lawful
17 hunting, fishing, taking, or possession of game animals, game birds,
18 game fish, food fish, or shellfish that conform to the special
19 restrictions or physical descriptions established by rule of the
20 commission or that have otherwise been deemed legal to hunt, fish,
21 take, or possess by rule of the commission. "Open season" includes
22 the first and last days of the established time.

23 (41) "Owner" means the person in whom is vested the ownership
24 dominion, or title of the property.

25 (42) "Person" means and includes an individual; a corporation; a
26 public or private entity or organization; a local, state, or federal
27 agency; all business organizations, including corporations and
28 partnerships; or a group of two or more individuals acting with a
29 common purpose whether acting in an individual, representative, or
30 official capacity.

31 (43) "Personal property" or "property" includes both corporeal
32 and incorporeal personal property and includes, among other property,
33 contraband and money.

34 (44) "Personal use" means for the private use of the individual
35 taking the fish or shellfish and not for sale or barter.

36 (45) "Predatory birds" means wild birds that may be hunted
37 throughout the year as authorized by the commission.

38 (46) "Protected wildlife" means wildlife designated by the
39 commission that shall not be hunted or fished.

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

6 (48) "Resident" has the same meaning as defined in RCW 77.08.075.

7 (49) "Retail-eligible species" means commercially harvested
8 salmon, crab, and sturgeon.

9 (50) "Saltwater" means those marine waters seaward of river
10 mouths.

11 (51) "Seaweed" means marine aquatic plant species that are
12 dependent upon the marine aquatic or tidal environment, and exist in
13 either an attached or free floating form, and includes but is not
14 limited to marine aquatic plants in the classes Chlorophyta,
15 Phaeophyta, and Rhodophyta.

16 (52) "Senior" means a person seventy years old or older.

17 (53) "Shark fin" means a raw, dried, or otherwise processed
18 detached fin or tail of a shark.

19 (54)(a) "Shark fin derivative product" means any product intended
20 for use by humans or animals that is derived in whole or in part from
21 shark fins or shark fin cartilage.

22 (b) "Shark fin derivative product" does not include a drug
23 approved by the United States food and drug administration and
24 available by prescription only or medical device or vaccine approved
25 by the United States food and drug administration.

26 (55) "Shellfish" means those species of marine and freshwater
27 invertebrates that have been classified and that shall not be taken
28 or possessed except as authorized by rule of the commission. The term
29 "shellfish" includes all stages of development and the bodily parts
30 of shellfish species.

31 (56) "State waters" means all marine waters and fresh waters
32 within ordinary high water lines and within the territorial
33 boundaries of the state.

34 (57) "Taxidermist" means a person who, for commercial purposes,
35 creates lifelike representations of fish and wildlife using fish and
36 wildlife parts and various supporting structures.

37 (58) "To fish" and its derivatives means an effort to kill,
38 injure, harass, harvest, or capture a fish or shellfish.

39 (59) "To hunt" and its derivatives means an effort to kill,
40 injure, harass, harvest, or capture a wild animal or wild bird.

1 (60) "To process" and its derivatives mean preparing or
2 preserving fish, wildlife, or shellfish.

3 (61) "To take" and its derivatives means to kill, injure,
4 harvest, or capture a fish, shellfish, wild animal, bird, or seaweed.

5 (62) "To trap" and its derivatives means a method of hunting
6 using devices to capture wild animals or wild birds.

7 (63) "To waste" or "to be wasted" means to allow any edible
8 portion of any game bird, food fish, game fish, shellfish, or big
9 game animal other than cougar to be rendered unfit for human
10 consumption, or to fail to retrieve edible portions of such a game
11 bird, food fish, game fish, shellfish, or big game animal other than
12 cougar from the field. For purposes of this chapter, edible portions
13 of game birds must include, at a minimum, the breast meat of those
14 birds. Entrails, including the heart and liver, of any wildlife
15 species are not considered edible.

16 (64) "Trafficking" means offering, attempting to engage, or
17 engaging in sale, barter, or purchase of fish, shellfish, wildlife,
18 or deleterious exotic wildlife.

19 (65) "Unclaimed" means that no owner of the property has been
20 identified or has requested, in writing, the release of the property
21 to themselves nor has the owner of the property designated an
22 individual to receive the property or paid the required postage to
23 effect delivery of the property.

24 (66) "Unclassified wildlife" means wildlife existing in
25 Washington in a wild state that have not been classified as big game,
26 game animals, game birds, predatory birds, protected wildlife,
27 endangered wildlife, or deleterious exotic wildlife.

28 (67) "Wholesale fish dealer" means a person who, acting for
29 commercial purposes, takes possession or ownership of fish or
30 shellfish and sells, barter, or exchanges or attempts to sell,
31 barter, or exchange fish or shellfish that have been landed into the
32 state of Washington or entered the state of Washington in interstate
33 or foreign commerce.

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

38 (69) "Wild birds" means those species of the class Aves whose
39 members exist in Washington in a wild state.

1 (70) "Wildlife" means all species of the animal kingdom whose
2 members exist in Washington in a wild state. This includes but is not
3 limited to mammals, birds, reptiles, amphibians, fish, and
4 invertebrates. The term "wildlife" does not include feral domestic
5 mammals, old world rats and mice of the family Muridae of the order
6 Rodentia, or those fish, shellfish, and marine invertebrates
7 classified as food fish or shellfish by the director. The term
8 "wildlife" includes all stages of development and the bodily parts of
9 wildlife members.

10 (71) "Wildlife meat cutter" means a person who packs, cuts,
11 processes, or stores wildlife for consumption for another for
12 commercial purposes.

13 (72) "Youth" means a person fifteen years old for fishing and
14 under sixteen years old for hunting.

15 NEW SECTION. **Sec. 46.** The following acts or parts of acts are
16 each repealed:

17 (1) RCW 77.12.605 (Whidbey Island game farm—Sale of property) and
18 1999 c 205 s 1;

19 (2) RCW 77.12.690 (Annual migratory bird permit design—
20 Administration, sale, and distribution—Deposit and use of funds) and
21 2011 1st sp.s. c 21 s 16 & 2009 c 333 s 38;

22 (3) RCW 77.12.710 (Game fish production—Double by year 2000) and
23 1998 c 245 s 159, 1995 c 399 s 208, 1993 sp.s. c 2 s 70, & 1990 c 110
24 s 2; and

25 (4) RCW 77.65.900 (Effective date—1989 c 316) and 1989 c 316 s
26 22.

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