

SENATE BILL REPORT

SB 5404

As Reported by Senate Committee On:
Natural Resources, Ocean & Recreation, February 25, 2009

Title: An act relating to modernizing certain provisions in Title 77 RCW regarding fish and wildlife.

Brief Description: Modifying various provisions of Title 77 RCW.

Sponsors: Senator Jacobsen; by request of Department of Fish and Wildlife.

Brief History:

Committee Activity: Natural Resources, Ocean & Recreation: 2/09/09, 2/25/09 [DPS, DNP].

SENATE COMMITTEE ON NATURAL RESOURCES, OCEAN & RECREATION

Majority Report: That Substitute Senate Bill No. 5404 be substituted therefor, and the substitute bill do pass.

Signed by Senators Jacobsen, Chair; Ranker, Vice Chair; Fraser, Hargrove, Hatfield and Swecker.

Minority Report: Do not pass.

Signed by Senators Morton, Ranking Minority Member; Stevens.

Staff: Karen Epps (786-7424)

Background: The Fish and Wildlife enforcement statutes contain a number of unlawful acts that relate to hunting, fishing, and other wildlife related activities. The penalties for violating these regulations range from civil natural resources infractions to misdemeanors and felonies.

In addition to the violations outlined in the statute, the Fish and Wildlife Commission (Commission) has the authority to adopt rules that regulate the harvest of wildlife and fish. Rules adopted by the Commission can be enforced with criminal sanctions, and serve as a basis for some of the crimes expressly outlined in the statute. If a rule is not an element of a statutory crime, the Commission has the authority to provide for civil enforcement of the rule.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Currently, a person must have a license or permit to act as a guide for salmon for personal use in freshwater rivers and streams, unless the person is acting as a guide along the Columbia River below the bridge at Longview. A charter license is needed to act as a guide in the river below the bridge.

Summary of Bill (Recommended Substitute): Failure to pay a fine or appear at a hearing to contest an infraction or criminal citation is considered a conviction for purposes of the Fish and Wildlife enforcement statutes. Additionally, forfeiture of bail is also considered a conviction for the purposes of the Fish and Wildlife enforcement statutes. If a person is convicted of violating recreation hunting or fishing laws or rules, including a fish and wildlife infraction, three times or more in a ten-year period, revocation and suspension of all recreational hunting and fishing privileges must be ordered for two years. Additionally, a person's master hunter permit may be suspended or revoked for certain reasons for specific periods of time.

A person who holds a fur buyer's license or a taxidermy license is guilty of unlawful use of a commercial wildlife license for violating any rule of the Department of Fish and Wildlife (DFW) regarding reporting requirements.

The Commission must define the opening day of lowland lake fishing season by rule.

A person must have a license or permit in order to act as a food fish guide, except that a charter boat license is required to operate a vessel from which a person may for a fee fish for food fish in certain state waters. A person is guilty of acting unlawfully as a game fish guide or food fish guide if the person acts as a game fish guide or food fish guide and does not hold the proper license. Violation of this provision is a gross misdemeanor.

Retail sellers, such as grocery stores, are exempt from needing an anadromous game fish buyer's license if they purchased their steelhead trout or other anadromous game fish from a licensed wholesale fish dealer.

If a person is convicted of two or more specific commercial fishing violations within a three-year period, the person's commercial fishing license privileges may be suspended by DFW for up to one year. A commercial fishing license that is impacted by this privilege suspension may not be transferred after a notice of suspension is issued.

The DFW may dispose of unclaimed property in the same manner as is currently done by the State Patrol. The DFW may use monies in the Fish and Wildlife Enforcement Reward Account to offset department-approved costs incurred to administer the Hunter Education Deferral Program and the Master Hunter Program.

The DFW enforcement division may provide aquatic invasive species instruction training to other local law enforcement. A person entering Washington while transporting watercraft must have in their possession documentation that the watercraft has been inspected and found free of aquatic invasive species. The cost of impounding, transporting, cleaning, and decontaminating watercraft that is contaminated with aquatic invasive species will be paid by the person in possession of the watercraft when it is inspected.

EFFECT OF CHANGES MADE BY NATURAL RESOURCES, OCEAN & RECREATION COMMITTEE (Recommended Substitute): Allows DFW to dispose of unclaimed property in the same manner as is currently done by the State Patrol. Allows DFW to suspend a person's master hunter permit for certain reasons for specific periods of time. Allows DFW to use monies in the Fish and Wildlife Enforcement Reward Account to offset department-approved costs incurred to administer the Hunter Education Deferral Program and the Master Hunter Program. Directs DFW enforcement to provide aquatic invasive species instruction training to other local law enforcement. Requires a person entering Washington while transporting watercraft to have in their possession documentation that the watercraft has been inspected and found free of aquatic invasive species. Establishes that the cost of impounding, transporting, cleaning, and decontaminating watercraft that is contaminated with aquatic invasive species will be paid by the person in possession of the watercraft when it is inspected.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: PRO: This bill has various sections, some of which are technical fixes and a couple of which are more substantive changes. Sections 1 and 2 of the bill modify the statute to recognize that paying a fine should be considered a conviction. Sections 3 and 4 make corrections to statutory references. Section 5 is a policy change establishing that persons holding a fur buyer's license or a taxidermy license commit a violation if they fail to comply with rules on reporting requirements. Section 6 provides the Fish and Wildlife Commission with flexibility in setting the lowland fishing date. Sections 7 through 10 close an enforcement loophole. Section 11 changes a term to an existing defined term. Section 12 allows DFW to suspend commercial fishing licenses. Section 13 repeals duplicative statutes.

Persons Testifying: PRO: Mike Cenci, Deputy Chief, Washington DFW.

Staff Summary of Public Testimony on Recommended Substitute: PRO: This bill addresses some issues within the Master Hunter Program to allow enforcement officers to revoke a master hunter license if the master hunter violates DFW rules or engages in other actions that contradict the purposes of the Master Hunter Program, including encouraging good hunter ethics. Additionally, this bill authorizes DFW enforcement to order criminal background checks on a person participating in the Master Hunter Program. This bill allows for spot checks on watercraft that may be contaminated by aquatic invasive species. Additionally, it shifts the cost burden to the person bringing the watercraft into Washington. This is a well vetted bill that involved input from county commissioners, stakeholders, and others.

Persons Testifying: PRO: Bruce Bjork, Chief of Enforcement, DFW; Ed Owens, Hunters Heritage Council, Coalition of Coastal Fisheries, Citizens for Responsible Wildlife.