

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5688

62nd Legislature
2011 Regular Session

Passed by the Senate April 20, 2011
YEAS 47 NAYS 0

President of the Senate

Passed by the House April 5, 2011
YEAS 95 NAYS 1

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5688** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5688

AS AMENDED BY THE HOUSE

Passed Legislature - 2011 Regular Session

State of Washington 62nd Legislature 2011 Regular Session

By Senate Natural Resources & Marine Waters (originally sponsored by Senators Ranker, Swecker, Rockefeller, Litzow, Shin, and Kline)

READ FIRST TIME 02/21/11.

1 AN ACT Relating to shark finning activities; amending RCW
2 77.08.010; adding a new section to chapter 77.15 RCW; creating a new
3 section; and prescribing penalties.

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

5 NEW SECTION. **Sec. 1.** The legislature finds and declares the
6 following:

7 (1) The practice of shark finning, where a shark is caught, its
8 fins are sliced off while it is still alive, and the animal returned to
9 the sea severely and almost always fatally wounded, constitutes a
10 serious threat to Washington's coastal ecosystem and biodiversity.
11 Sharks are particularly susceptible to overfishing because they only
12 reach sexual maturity between seven to twelve years of age and hatch or
13 birth small litters. The destruction of the population of sharks,
14 which reside at the top of the marine food chain, is an urgent problem
15 that upsets the balance of species in the ocean ecosystem.

16 (2) Shark finning condemns millions of sharks every year to slow,
17 painful deaths. Returned to the water without their fins, the maimed
18 sharks are attacked by other predators or drown, because most shark

1 species must swim in order to push water through their gills. Shark
2 finning is therefore a cruel practice contrary to the good morals of
3 the citizens of the state of Washington.

4 (3) The market for shark fins drives the brutal practice of shark
5 finning. Shark finning and trade in shark fins and shark fin
6 derivative products are occurring all along the Pacific Coast,
7 including the state of Washington.

8 (4) The consumption of shark fins and shark fin derivative products
9 by humans may cause serious health risks, including risks from mercury.

10 NEW SECTION. **Sec. 2.** A new section is added to chapter 77.15 RCW
11 to read as follows:

12 (1) Except as otherwise provided in this section, a person is
13 guilty of unlawful trade in shark fins in the second degree if:

14 (a) The person sells, offers for sale, purchases, offers to
15 purchase, or otherwise exchanges a shark fin or shark fin derivative
16 product for commercial purposes; or

17 (b) The person prepares or processes a shark fin or shark fin
18 derivative product for human or animal consumption for commercial
19 purposes.

20 (2) Except as otherwise provided in this section, a person is
21 guilty of unlawful trade in shark fins in the first degree if:

22 (a) The person commits the act described by subsection (1) of this
23 section and the violation involves shark fins or a shark fin derivative
24 product with a total market value of two hundred fifty dollars or more;

25 (b) The person commits the act described by subsection (1) of this
26 section and acted with knowledge that the shark fin or shark fin
27 derivative product originated from a shark that was harvested in an
28 area or at a time where or when the harvest was not legally allowed or
29 by a person not licensed to harvest the shark; or

30 (c) The person commits the act described by subsection (1) of this
31 section and the violation occurs within five years of entry of a prior
32 conviction under this section or a prior conviction for any other gross
33 misdemeanor or felony under this title involving fish, other than a
34 recreational fishing violation.

35 (3)(a) Unlawful trade in shark fins in the second degree is a gross
36 misdemeanor. Upon conviction, the department shall suspend any

1 commercial fishing privileges for the person that requires a license
2 under this title for a period of one year.

3 (b) Unlawful trade in shark fins in the first degree is a class C
4 felony. Upon conviction, the department shall suspend any commercial
5 fishing privileges for the person that requires a license under this
6 title for a period of one year.

7 (4) Any person who obtains a license or permit issued by the
8 department to take or possess sharks or shark parts for bona fide
9 research or educational purposes, and who sells, offers for sale,
10 purchases, offers to purchase, or otherwise trades a shark fin or shark
11 fin derivative product, exclusively for bona fide research or
12 educational purposes, may not be held liable under or subject to the
13 penalties of this section.

14 (5) Nothing in this section prohibits the sale, offer for sale,
15 purchase, offer to purchase, or other exchange of shark fins or shark
16 fin derivative products for commercial purposes, or preparation or
17 processing of shark fins or shark fin derivative products for purposes
18 of human or animal consumption for commercial purposes, if the shark
19 fins or shark fin derivative products were lawfully harvested or
20 lawfully acquired prior to the effective date of this section.

21 **Sec. 3.** RCW 77.08.010 and 2009 c 333 s 12 are each amended to read
22 as follows:

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

26 (1) "Angling gear" means a line attached to a rod and reel capable
27 of being held in hand while landing the fish or a hand-held line
28 operated without rod or reel.

29 (2) "Aquatic invasive species" means any invasive, prohibited,
30 regulated, unregulated, or unlisted aquatic animal or plant species as
31 defined under subsections (3), (28), (40), (44), (58), and (59) of this
32 section, aquatic noxious weeds as defined under RCW 17.26.020(5)(c),
33 and aquatic nuisance species as defined under RCW 77.60.130(1).

34 (3) "Aquatic plant species" means an emergent, submersed, partially
35 submersed, free-floating, or floating-leaving plant species that grows
36 in or near a body of water or wetland.

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

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

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

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

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

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

20 (10) "Concurrent waters of the Columbia river" means those waters
21 of the Columbia river that coincide with the Washington-Oregon state
22 boundary.

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

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

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

29 (14) "Director" means the director of fish and wildlife.

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

32 (16) "Ex officio fish and wildlife officer" means a commissioned
33 officer of a municipal, county, state, or federal agency having as its
34 primary function the enforcement of criminal laws in general, while the
35 officer is in the appropriate jurisdiction. The term "ex officio fish
36 and wildlife officer" includes special agents of the national marine
37 fisheries service, state parks commissioned officers, United States

1 fish and wildlife special agents, department of natural resources
2 enforcement officers, and United States forest service officers, while
3 the agents and officers are within their respective jurisdictions.

4 (17) "Fish" includes all species classified as game fish or food
5 fish by statute or rule, as well as all fin fish not currently
6 classified as food fish or game fish if such species exist in state
7 waters. The term "fish" includes all stages of development and the
8 bodily parts of fish species.

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

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

18 (20) "Fishery" means the taking of one or more particular species
19 of fish or shellfish with particular gear in a particular geographical
20 area.

21 (21) "Freshwater" means all waters not defined as saltwater
22 including, but not limited to, rivers upstream of the river mouth,
23 lakes, ponds, and reservoirs.

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

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

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

30 (25) "Game farm" means property on which wildlife is held or raised
31 for commercial purposes, trade, or gift. The term "game farm" does not
32 include publicly owned facilities.

33 (26) "Game reserve" means a closed area where hunting for all wild
34 animals and wild birds is prohibited.

35 (27) "Illegal items" means those items unlawful to be possessed.

36 (28) "Invasive species" means a plant species or a nonnative animal
37 species that either:

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

3 (b) Threatens or may threaten natural resources or their use in the
4 state;

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

7 (d) Threatens or harms human health.

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

11 (30) "Limited-entry license" means a license subject to a license
12 limitation program established in chapter 77.70 RCW.

13 (31) "Money" means all currency, script, personal checks, money
14 orders, or other negotiable instruments.

15 (32) "Nonresident" means a person who has not fulfilled the
16 qualifications of a resident.

17 (33) "Offshore waters" means marine waters of the Pacific Ocean
18 outside the territorial boundaries of the state, including the marine
19 waters of other states and countries.

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

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

30 (36) "Person" means and includes an individual; a corporation; a
31 public or private entity or organization; a local, state, or federal
32 agency; all business organizations, including corporations and
33 partnerships; or a group of two or more individuals acting with a
34 common purpose whether acting in an individual, representative, or
35 official capacity.

36 (37) "Personal property" or "property" includes both corporeal and
37 incorporeal personal property and includes, among other property,
38 contraband and money.

1 (38) "Personal use" means for the private use of the individual
2 taking the fish or shellfish and not for sale or barter.

3 (39) "Predatory birds" means wild birds that may be hunted
4 throughout the year as authorized by the commission.

5 (40) "Prohibited aquatic animal species" means an invasive species
6 of the animal kingdom that has been classified as a prohibited aquatic
7 animal species by the commission.

8 (41) "Protected wildlife" means wildlife designated by the
9 commission that shall not be hunted or fished.

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

15 (43) "Recreational and commercial watercraft" includes the boat, as
16 well as equipment used to transport the boat, and any auxiliary
17 equipment such as attached or detached outboard motors.

18 (44) "Regulated aquatic animal species" means a potentially
19 invasive species of the animal kingdom that has been classified as a
20 regulated aquatic animal species by the commission.

21 (45) "Resident" means:

22 (a) A person who has maintained a permanent place of abode within
23 the state for at least ninety days immediately preceding an application
24 for a license, has established by formal evidence an intent to continue
25 residing within the state, and who is not licensed to hunt or fish as
26 a resident in another state; and

27 (b) A person age eighteen or younger who does not qualify as a
28 resident under (a) of this subsection, but who has a parent that
29 qualifies as a resident under (a) of this subsection.

30 (46) "Retail-eligible species" means commercially harvested salmon,
31 crab, and sturgeon.

32 (47) "Saltwater" means those marine waters seaward of river mouths.

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

38 (49) "Senior" means a person seventy years old or older.

1 (50) "Shellfish" means those species of marine and freshwater
2 invertebrates that have been classified and that shall not be taken
3 except as authorized by rule of the commission. The term "shellfish"
4 includes all stages of development and the bodily parts of shellfish
5 species.

6 (51) "State waters" means all marine waters and fresh waters within
7 ordinary high water lines and within the territorial boundaries of the
8 state.

9 (52) "To fish," "to harvest," and "to take," and their derivatives
10 means an effort to kill, injure, harass, or catch a fish or shellfish.

11 (53) "To hunt" and its derivatives means an effort to kill, injure,
12 capture, or harass a wild animal or wild bird.

13 (54) "To process" and its derivatives mean preparing or preserving
14 fish, wildlife, or shellfish.

15 (55) "To trap" and its derivatives means a method of hunting using
16 devices to capture wild animals or wild birds.

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

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

25 (58) "Unlisted aquatic animal species" means a nonnative animal
26 species that has not been classified as a prohibited aquatic animal
27 species, a regulated aquatic animal species, or an unregulated aquatic
28 animal species by the commission.

29 (59) "Unregulated aquatic animal species" means a nonnative animal
30 species that has been classified as an unregulated aquatic animal
31 species by the commission.

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

1 (61) "Wild animals" means those species of the class Mammalia whose
2 members exist in Washington in a wild state and the species Rana
3 catesbeiana (bullfrog). The term "wild animal" does not include feral
4 domestic mammals or old world rats and mice of the family Muridae of
5 the order Rodentia.

6 (62) "Wild birds" means those species of the class Aves whose
7 members exist in Washington in a wild state.

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

17 (64) "Youth" means a person fifteen years old for fishing and under
18 sixteen years old for hunting.

19 (65) "Shark fin" means a raw, dried, or otherwise processed
20 detached fin or tail of a shark.

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

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

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