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**SUBSTITUTE SENATE BILL 5583**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** Senate Ways & Means (originally sponsored by Senator Dansel)

AN ACT Relating to providing the fish and wildlife commission with the tools necessary to enact changes to the status of a species; amending RCW 77.12.020, 77.04.090, and 77.04.012; and adding a new section to chapter 77.12 RCW.

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

**Sec.**  RCW 77.12.020 and 2014 c 202 s 302 are each amended to read as follows:

(1) The director shall investigate the habits and distribution of the various species of wildlife native to or adaptable to the habitats of the state. The commission shall determine whether a species should be managed by the department and, if so, classify it under this section.

(2) The commission may classify by rule wild animals as game animals and game animals as fur-bearing animals.

(3) The commission may classify by rule wild birds as game birds or predatory birds. All wild birds not otherwise classified are protected wildlife.

(4) In addition to those species listed in RCW 77.08.020, the commission may classify by rule as game fish other species of the class Osteichthyes that are commonly found in freshwater except those classified as food fish by the director.

(5) The director may recommend to the commission that a species of wildlife should not be hunted or fished. The commission may designate species of wildlife as protected.

(6) If the director determines that a species of wildlife is seriously threatened with extinction in the state of Washington, the director may request its designation as an endangered species. The commission may designate, and remove the designation for, an endangered species. The commission may remove the designation of a terrestrial mammal species on a regional basis consistent with section 2 of this act. However, all initial designations for any species must be made on a statewide basis.

(7) If the director determines that a species of the animal kingdom, not native to Washington, is dangerous to the environment or wildlife of the state, the director may request its designation as deleterious exotic wildlife. The commission may designate deleterious exotic wildlife.

(8) Upon recommendation by the director, the commission may develop a work plan to eradicate native aquatic species that threaten human health. Priority shall be given to water bodies that the department of health has classified as representing a threat to human health based on the presence of a native aquatic species.

NEW SECTION. **Sec.**  A new section is added to chapter 77.12 RCW to read as follows:

(1) If the commission has listed a terrestrial mammal species statewide as endangered, threatened, or sensitive in Washington under RCW 77.12.020, it must consider any petitions for removing a species from classification under RCW 77.12.020 on a regional basis.

(2)(a) Regional changes to the listing status of a terrestrial mammal species must, given the preponderance of scientific data available, be based on regional population numbers and the biological status of the species as it exists in the proposed region and not on the region's contribution to the overall statewide species recovery.

(b) In making decisions relating to petitions for a regional change in the status of a species, the commission:

(i) Must consider the parallel federal endangered species act status of the species in question for the region where a change in status is petitioned;

(ii) Must use the regional designation as identified in the petition as the basis for consideration of the status of the species and delineation of the relevant region; and

(iii) May not use any previously adopted statewide recovery or management plans, and the standards included in those plans, as a basis for determining regional biological status for the subject species.

(3) If a petition for removing a species from classification under RCW 77.12.020 on a regional basis is denied, the commission must provide detailed information, including references to any relevant scientific data, that supports and explains the decision to deny.

(4)(a) Upon a regional change in listing status, the commission must, consistent with this section, amend any relevant management plans, recovery plans, or administrative rules related to the subject species so that management of the species in the region is tailored to the needs of the region and not to the overall statewide needs of the species.

(b) All regional management plans and associated rules must provide for a balance of management outcomes that considers:

(i) The regional management needs of the subject species;

(ii) How the management of the subject species affects wildlife management of all species in the region; and

(iii) How the management of both the subject species and all other species in the region affects, as the paramount priority, local customs and cultures.

(c) The department must give deference to the customs and culture of local communities over statewide goals for any species subject to a regional change in listing status under this section and in any subsequent changes in management plans, recovery plans, or administrative rules related to the subject species. To assist the department in understanding local customs, priorities, and cultures, all plans and rules adopted after a regional change in listing status must be developed jointly and in coordination with all interested county legislative authorities in the affected region. The coordination among local legislative authorities and the department required under this subsection must commence in the initial planning stages of any management or rule changes and continue, in concert, through all implementation and monitoring stages.

(5) All requirements in this section are subject to the availability of amounts appropriated for the specific purposes described.

**Sec.**  RCW 77.04.090 and 1996 c 267 s 35 are each amended to read as follows:

(1) The commission shall adopt permanent rules and amendments to or repeals of existing rules by approval of a majority of the members by resolution, entered and recorded in the minutes of the commission((~~: PROVIDED, That~~)). However, the commission may not:

(a) Adopt rules after July 23, 1995, that are based solely on a section of law stating a statute's intent or purpose, on the enabling provisions of the statute establishing the agency, or on any combination of such provisions, for statutory authority to adopt any rule; or

(b) Adopt any rule relating to the management of a terrestrial mammal species subject to a regional change in listing status under section 2 of this act without fully coordinating with local elected officials as required in section 2 of this act.

(2)(a) The commission shall adopt emergency rules by approval of a majority of the members. The commission, when adopting emergency rules under RCW 77.12.150, shall adopt rules in conformance with chapter 34.05 RCW. Judicial notice shall be taken of the rules filed and published as provided in RCW 34.05.380 and 34.05.210.

(b) A copy of an emergency rule, certified as a true copy by a member of the commission, the director, or by a person authorized in writing by the director to make the certification, is admissible in court as prima facie evidence of the adoption and validity of the rule.

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

(1) Wildlife, fish, and shellfish are the property of the state. The commission, director, and the department shall preserve, protect, perpetuate, and, consistent with section 2 of this act, manage the wildlife and food fish, game fish, and shellfish in state waters and offshore waters.

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

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

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

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

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

**--- END ---**