

SENATE BILL REPORT

HB 1172

As Reported by Senate Committee On:
Agriculture, Water, Natural Resources & Parks, March 25, 2021

Title: An act relating to recognizing judicially affirmed and treaty-reserved fishing rights and promoting state-tribal cooperative agreements in the management of salmon, trout, and steelhead resources.

Brief Description: Recognizing judicially affirmed and treaty-reserved fishing rights and promoting state-tribal cooperative agreements in the management of salmon, trout, and steelhead resources.

Sponsors: Representatives Lekanoff, Kloba, Ramel, Leavitt, Davis, Dolan, Fitzgibbon, Riccelli, Bateman, Gregerson and Duerr; by request of Attorney General.

Brief History: Passed House: 2/25/21, 98-0.

Committee Activity: Agriculture, Water, Natural Resources & Parks: 3/18/21, 3/25/21 [DP].

Brief Summary of Bill

- Repeals statutory provisions related to the management of salmon and steelhead resources established by Initiative 456 passed in 1984.

SENATE COMMITTEE ON AGRICULTURE, WATER, NATURAL RESOURCES & PARKS

Majority Report: Do pass.

Signed by Senators Van De Wege, Chair; Salomon, Vice Chair; Warnick, Ranking Member; Honeyford, Rolfes, Short and Stanford.

Staff: Jeff Olsen (786-7428)

Background: Initiative 456 was passed by the voters in 1984. The measure enacted

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provisions relating to management of salmon and steelhead resources, including:

- declaring that an emergency exists in the management of salmon and steelhead trout resources such that both are in great peril;
- petitioning the United States Congress to immediately make the steelhead trout a national game fish;
- declaring that conservation, enhancement, and proper use of the state's natural resources, including but not limited to lands, waters, timber, fish, and game, are responsibilities of the state of Washington and remain within its express domain;
- declaring that "no citizen shall be denied equal access to and use of any resource on the basis of race, sex, origin, cultural heritage, or by and through any treaty based upon the same";
- declaring that "under the Indians Citizens Act of 1924, all Indians became citizens of the United States and subject to the Constitution and laws of the United States and state in which they reside"; and
- declaring that "any special off-reservation legal rights or privileges of Indians established through treaties that are denied to other citizens were terminated by that 1924 enactment, and any denial of rights to any citizen based upon race, sex, origin, cultural heritage, or by and through any treaty based upon the same is unconstitutional."

Summary of Bill: Initiative 456 passed in 1984 is repealed.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony: PRO: This is a cleanup bill from the Office of the Attorney General and the Washington Department of Fish and Wildlife to repeal a law that is unenforceable. Initiative 456 established a state law which declared that only the state could manage natural resources and that tribal treaty rights were not enforceable. Treaty rights are contracts, and are nation-to-nation agreements are the supreme law of the land. The law serves no legal purpose today. The current law is unenforceable under the United States Supreme Court cases of *U.S. v. Washington* and *U.S. v. Oregon*, among others. We have come a long way as a state in collaboration since the Boldt decision and we are working together to co-manage fisheries. This legislation is an opportunity to correct a historical error and clean up a bad law that no longer applies. The Department of Fish and Wildlife has not relied on this chapter to manage natural resources.

Persons Testifying: PRO: Representative Debra Lekanoff, Prime Sponsor; Jim Woods, Washington Department of Fish and Wildlife; Asa Washines, Washington State Office of

the Attorney General; Joe Panesko, Washington State Office of the Attorney General;
Raelene Gold, League of Women Voters of Washington.

Persons Signed In To Testify But Not Testifying: No one.