

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 2055

Chapter 2, Laws of 1993

(partial veto)

53rd Legislature
1993 First Special Session

DEPARTMENT OF FISH AND WILDLIFE

EFFECTIVE DATE: 8/5/93 - Except Sections 1 through 6, 8 through 59,
& 61 through 79 which take effect on 7/1/94; & Sections 7, 60, 80,
& 82 through 100 which take effect on 7/1/93.

Passed by the House April 29, 1993
Yeas 89 Nays 2

BRIAN EBERSOLE
Speaker of the
House of Representatives

Passed by the Senate April 30, 1993
Yeas 34 Nays 11

JOEL PRITCHARD
President of the Senate

Approved May 28, 1993, with the
exception of section 96, which is
vetoed.

MIKE LOWRY
Governor of the State of Washington

CERTIFICATE

I, Alan Thompson, Chief Clerk of the
House of Representatives of the State
of Washington, do hereby certify that
the attached is **ENGROSSED SUBSTITUTE
HOUSE BILL 2055** as passed by the House
of Representatives and the Senate on
the dates hereon set forth.

ALAN THOMPSON
Chief Clerk

FILED

May 28, 1993 - 1:50 p.m.

Secretary of State
State of Washington

ENGROSSED SUBSTITUTE HOUSE BILL 2055

Passed Legislature - 1993 First Special Session

State of Washington 53rd Legislature 1993 Regular Session

By House Committee on State Government (originally sponsored by Representatives Hansen, Fuhrman, King, Basich, R. Fisher, Sheldon, Ogden, Lemmon and Conway; by request of Governor Lowry)

Read first time 03/03/93.

1 AN ACT Relating to the creation of the department of fish and
2 wildlife; amending RCW 41.06.070, 43.17.010, 43.17.020, 42.17.2401,
3 43.51.955, 75.08.014, 75.08.035, 75.08.055, 75.08.400, 75.10.010,
4 75.10.200, 75.12.040, 75.20.005, 75.20.050, 75.20.100, 75.20.1001,
5 75.20.103, 75.20.104, 75.20.1041, 75.20.106, 75.20.110, 75.20.130,
6 75.20.300, 75.20.310, 75.24.065, 75.25.005, 75.25.080, 75.25.170,
7 75.25.180, 75.50.010, 75.50.070, 75.50.080, 75.50.130, 75.52.010,
8 75.52.020, 75.52.035, 75.52.100, 75.52.110, 75.52.160, 75.58.010,
9 75.58.020, 75.58.030, 75.58.040, 77.04.020, 77.04.030, 77.04.040,
10 77.04.055, 77.04.080, 77.04.100, 77.08.010, 77.12.055, 77.12.103,
11 77.12.440, 77.12.710, 77.12.730, 77.12.750, 77.16.060, 77.16.135,
12 77.16.170, 77.18.010, and 77.32.380; reenacting and amending RCW
13 75.08.011 and 77.04.060; adding a new section to chapter 77.12 RCW;
14 adding a new section to chapter 75.08 RCW; adding a new chapter to
15 Title 43 RCW; adding a new chapter to Title 75 RCW; creating new
16 sections; repealing RCW 43.131.375 and 43.131.376; making an
17 appropriation; providing effective dates; and declaring an emergency.

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

1 NEW SECTION. **Sec. 1.** Perpetuation of fish and wildlife in
2 Washington requires clear, efficient, streamlined, scientific,
3 management from a single state fish and wildlife agency. Such a
4 consolidation will focus existing funds for the greatest protection of
5 species and stocks. It will bring combined resources to bear on
6 securing, managing, and enhancing habitats. It will simplify
7 licensing, amplify research, increase field staff, avoid duplication,
8 and magnify enforcement of laws and rules. It will provide all
9 fishers, hunters, and observers of fish and wildlife with a single
10 source of consistent policies, procedures, and access.

11 NEW SECTION. **Sec. 2.** There is hereby created a department of
12 state government to be known as the department of fish and wildlife.
13 The department shall be vested with all powers and duties transferred
14 to it under this chapter and such other powers and duties as may be
15 authorized by law. All powers, duties, and functions of the department
16 of fisheries and the department of wildlife are transferred to the
17 department of fish and wildlife. All references in the Revised Code of
18 Washington to the director or the department of fisheries or the
19 director or department of wildlife shall be construed to mean the
20 director or department of fish and wildlife.

21 NEW SECTION. **Sec. 3.** As used in this chapter, unless the context
22 indicates otherwise:

- 23 (1) "Department" means the department of fish and wildlife.
24 (2) "Director" means the director of fish and wildlife.
25 (3) "Commission" means the fish and wildlife commission.

26 NEW SECTION. **Sec. 4.** The executive head and appointing authority
27 of the department shall be the director. The director shall be
28 appointed by the governor, with the consent of the senate, and shall
29 serve at the pleasure of the governor. The director shall be paid a
30 salary to be fixed by the governor in accordance with RCW 43.03.040.

31 NEW SECTION. **Sec. 5.** In addition to other powers and duties
32 granted or transferred to the director, the director shall have the
33 following powers and duties:

- 34 (1) Supervise and administer the department in accordance with law;

1 (2) Appoint personnel and prescribe their duties. Except as
2 otherwise provided, personnel of the department are subject to chapter
3 41.06 RCW, the state civil service law;

4 (3) Enter into contracts on behalf of the agency;

5 (4) Adopt rules in accordance with chapter 34.05 RCW, the
6 administrative procedure act;

7 (5) Delegate powers, duties, and functions as the director deems
8 necessary for efficient administration but the director shall be
9 responsible for the official acts of the officers and employees of the
10 department;

11 (6) Appoint advisory committees and undertake studies, research,
12 and analysis necessary to support the activities of the department;

13 (7) Accept and expend grants, gifts, or other funds to further the
14 purposes of the department;

15 (8) Carry out the policies of the governor and the basic goals and
16 objectives as prescribed by the fish and wildlife commission pursuant
17 to RCW 77.04.055; and

18 (9) Perform other duties as are necessary and consistent with law.

19 NEW SECTION. **Sec. 6.** The director shall appoint such deputy
20 directors, assistant directors, and up to seven special assistants as
21 may be needed to administer the department. These employees are exempt
22 from the provisions of chapter 41.06 RCW.

23 NEW SECTION. **Sec. 7.** The director of fisheries and the director
24 of wildlife shall, by November 15, 1993, jointly submit a plan to the
25 governor for the consolidation and smooth transition of the department
26 of fisheries and the department of wildlife into the department of fish
27 and wildlife so that the department of fish and wildlife will operate
28 as a single entity on July 1, 1994. The wildlife commission shall make
29 recommendations for the consolidation of the agencies to the governor
30 and the two directors. The fish and wildlife commission shall review
31 its area of responsibility in the consolidated agency and submit
32 recommendations by December 1, 1994, to the governor and the
33 appropriate standing committees of the legislature on any necessary
34 changes in its statutory authority. The legislative budget committee
35 shall study the role of the fish and wildlife commission and prepare a
36 report on recommended changes to the governor and the appropriate
37 standing committees of the legislature by December 1, 1994.

1 NEW SECTION. **Sec. 8.** The department of fisheries and the
2 department of wildlife are abolished and their powers, duties, and
3 functions are transferred to the department of fish and wildlife.

4 NEW SECTION. **Sec. 9.** All reports, documents, surveys, books,
5 records, files, papers, or written material connected with the powers,
6 duties, and functions transferred in this act shall be delivered to the
7 custody of the department of fish and wildlife. All cabinets,
8 furniture, office equipment, motor vehicles, and other tangible
9 property employed in connection with the powers, duties, and functions
10 transferred shall be made available to the department of fish and
11 wildlife. All funds, credits, or other assets held in connection with
12 the powers, duties, and functions transferred shall be assigned to the
13 department of fish and wildlife.

14 Any appropriations made in connection with the powers, duties, and
15 functions transferred shall, on the effective date of this section, be
16 transferred and credited to the department of fish and wildlife.

17 Whenever any question arises as to the transfer of any personnel,
18 funds, books, documents, records, papers, files, equipment, or other
19 tangible property used or held in the exercise of the powers and the
20 performance of the duties and functions transferred, or as to the
21 powers, duties, and functions transferred, the director of financial
22 management shall make a determination as to the proper allocation and
23 certify the same to the state agencies concerned.

24 NEW SECTION. **Sec. 10.** All classified employees employed in
25 connection with the powers, duties, and functions transferred are
26 transferred to the jurisdiction of the department of fish and wildlife.
27 All employees classified under chapter 41.06 RCW, the state civil
28 service law, are assigned to the department of fish and wildlife to
29 perform their usual duties upon the same terms as formerly, without any
30 loss of rights, subject to any action that may be appropriate
31 thereafter in accordance with the laws and rules governing state civil
32 service.

33 NEW SECTION. **Sec. 11.** All rules and all pending business before
34 any agency of state government pertaining to the powers, duties, and
35 functions transferred shall be continued and acted upon by the
36 department of fish and wildlife. All existing contracts, obligations,

1 and agreements shall remain in full force and shall be performed by the
2 department of fish and wildlife.

3 NEW SECTION. **Sec. 12.** The transfer of the powers, duties,
4 functions, and personnel shall not affect the validity of any act
5 performed by any employee before the effective date of this section.

6 NEW SECTION. **Sec. 13.** If apportionments of budgeted funds are
7 required because of the transfers directed by sections 9 through 12 of
8 this act, the director of financial management shall certify the
9 apportionments to the agencies affected, the state auditor, and the
10 state treasurer. Each of these shall make the appropriate transfer and
11 adjustments in funds and appropriation accounts and equipment records
12 in accordance with the certification.

13 NEW SECTION. **Sec. 14.** Nothing contained in sections 9 through 13
14 of this act may be construed to alter any existing collective
15 bargaining unit or the provisions of any existing collective bargaining
16 agreement until the agreement has expired or until the bargaining unit
17 has been modified by action of the personnel board as provided by law.

18 **Sec. 15.** RCW 41.06.070 and 1990 c 60 s 101 are each amended to
19 read as follows:

20 The provisions of this chapter do not apply to:

21 (1) The members of the legislature or to any employee of, or
22 position in, the legislative branch of the state government including
23 members, officers, and employees of the legislative council,
24 legislative budget committee, statute law committee, and any interim
25 committee of the legislature;

26 (2) The justices of the supreme court, judges of the court of
27 appeals, judges of the superior courts or of the inferior courts, or to
28 any employee of, or position in the judicial branch of state
29 government;

30 (3) Officers, academic personnel, and employees of state
31 institutions of higher education, the state board for community and
32 technical colleges ((~~education~~)), and the higher education personnel
33 board;

34 (4) The officers of the Washington state patrol;

35 (5) Elective officers of the state;

- 1 (6) The chief executive officer of each agency;
- 2 (7) In the departments of employment security, (~~fisheries,~~)
3 social and health services, the director and (~~his~~) the director's
4 confidential secretary; in all other departments, the executive head of
5 which is an individual appointed by the governor, the director, (~~his~~)
6 the director's confidential secretary, and (~~his~~) the director's
7 statutory assistant directors;
- 8 (8) In the case of a multimember board, commission, or committee,
9 whether the members thereof are elected, appointed by the governor or
10 other authority, serve ex officio, or are otherwise chosen:
- 11 (a) All members of such boards, commissions, or committees;
- 12 (b) If the members of the board, commission, or committee serve on
13 a part-time basis and there is a statutory executive officer: (i) The
14 secretary of the board, commission, or committee; (ii) the chief
15 executive officer of the board, commission, or committee; and (iii) the
16 confidential secretary of the chief executive officer of the board,
17 commission, or committee;
- 18 (c) If the members of the board, commission, or committee serve on
19 a full-time basis: (i) The chief executive officer or administrative
20 officer as designated by the board, commission, or committee; and (ii)
21 a confidential secretary to the chairman of the board, commission, or
22 committee;
- 23 (d) If all members of the board, commission, or committee serve ex
24 officio: (i) The chief executive officer; and (ii) the confidential
25 secretary of such chief executive officer;
- 26 (9) The confidential secretaries and administrative assistants in
27 the immediate offices of the elective officers of the state;
- 28 (10) Assistant attorneys general;
- 29 (11) Commissioned and enlisted personnel in the military service of
30 the state;
- 31 (12) Inmate, student, part-time, or temporary employees, and part-
32 time professional consultants, as defined by the state personnel board
33 or the board having jurisdiction;
- 34 (13) The public printer or to any employees of or positions in the
35 state printing plant;
- 36 (14) Officers and employees of the Washington state fruit
37 commission;
- 38 (15) Officers and employees of the Washington state apple
39 advertising commission;

1 (16) Officers and employees of the Washington state dairy products
2 commission;

3 (17) Officers and employees of the Washington tree fruit research
4 commission;

5 (18) Officers and employees of the Washington state beef
6 commission;

7 (19) Officers and employees of any commission formed under the
8 provisions of chapter 191, Laws of 1955, and chapter 15.66 RCW;

9 (20) Officers and employees of the state wheat commission formed
10 under the provisions of chapter 87, Laws of 1961 (chapter 15.63 RCW);

11 (21) Officers and employees of agricultural commissions formed
12 under the provisions of chapter 256, Laws of 1961 (chapter 15.65 RCW);

13 (22) Officers and employees of the nonprofit corporation formed
14 under chapter 67.40 RCW;

15 (23) Liquor vendors appointed by the Washington state liquor
16 control board pursuant to RCW 66.08.050: PROVIDED, HOWEVER, That rules
17 and regulations adopted by the state personnel board pursuant to RCW
18 41.06.150 regarding the basis for, and procedures to be followed for,
19 the dismissal, suspension, or demotion of an employee, and appeals
20 therefrom shall be fully applicable to liquor vendors except those part
21 time agency vendors employed by the liquor control board when, in
22 addition to the sale of liquor for the state, they sell goods, wares,
23 merchandise, or services as a self-sustaining private retail business;

24 (24) Executive assistants for personnel administration and labor
25 relations in all state agencies employing such executive assistants
26 including but not limited to all departments, offices, commissions,
27 committees, boards, or other bodies subject to the provisions of this
28 chapter and this subsection shall prevail over any provision of law
29 inconsistent herewith unless specific exception is made in such law;

30 (25) In each agency with fifty or more employees: Deputy agency
31 heads, assistant directors or division directors, and not more than
32 three principal policy assistants who report directly to the agency
33 head or deputy agency heads;

34 (26) All employees of the marine employees' commission;

35 (27) Up to a total of five senior staff positions of the western
36 library network under chapter 27.26 RCW responsible for formulating
37 policy or for directing program management of a major administrative
38 unit. This subsection shall expire on June 30, 1997;

1 (28) In addition to the exemptions specifically provided by this
2 chapter, the state personnel board may provide for further exemptions
3 pursuant to the following procedures. The governor or other
4 appropriate elected official may submit requests for exemption to the
5 personnel board stating the reasons for requesting such exemptions.
6 The personnel board shall hold a public hearing, after proper notice,
7 on requests submitted pursuant to this subsection. If the board
8 determines that the position for which exemption is requested is one
9 involving substantial responsibility for the formulation of basic
10 agency or executive policy or one involving directing and controlling
11 program operations of an agency or a major administrative division
12 thereof, the personnel board shall grant the request and such
13 determination shall be final. The total number of additional
14 exemptions permitted under this subsection shall not exceed one hundred
15 eighty-seven for those agencies not directly under the authority of any
16 elected public official other than the governor, and shall not exceed
17 a total of twenty-five for all agencies under the authority of elected
18 public officials other than the governor. The state personnel board
19 shall report to each regular session of the legislature during an odd-
20 numbered year all exemptions granted under subsections (24), (25), and
21 (28) of this section, together with the reasons for such exemptions.

22 The salary and fringe benefits of all positions presently or
23 hereafter exempted except for the chief executive officer of each
24 agency, full-time members of boards and commissions, administrative
25 assistants and confidential secretaries in the immediate office of an
26 elected state official, and the personnel listed in subsections (10)
27 through (22) of this section, shall be determined by the state
28 personnel board.

29 Any person holding a classified position subject to the provisions
30 of this chapter shall, when and if such position is subsequently
31 exempted from the application of this chapter, be afforded the
32 following rights: If such person previously held permanent status in
33 another classified position, such person shall have a right of
34 reversion to the highest class of position previously held, or to a
35 position of similar nature and salary.

36 Any classified employee having civil service status in a classified
37 position who accepts an appointment in an exempt position shall have
38 the right of reversion to the highest class of position previously
39 held, or to a position of similar nature and salary.

1 A person occupying an exempt position who is terminated from the
2 position for gross misconduct or malfeasance does not have the right of
3 reversion to a classified position as provided for in this section.

4 **Sec. 16.** RCW 43.17.010 and 1989 1st ex.s. c 9 s 810 are each
5 amended to read as follows:

6 There shall be departments of the state government which shall be
7 known as (1) the department of social and health services, (2) the
8 department of ecology, (3) the department of labor and industries, (4)
9 the department of agriculture, (5) (~~the department of fisheries, (6)~~)
10 the department of fish and wildlife, (~~(7)~~) (6) the department of
11 transportation, (~~(8)~~) (7) the department of licensing, (~~(9)~~) (8)
12 the department of general administration, (~~(10)~~) (9) the department
13 of trade and economic development, (~~(11)~~) (10) the department of
14 veterans affairs, (~~(12)~~) (11) the department of revenue, (~~(13)~~)
15 (12) the department of retirement systems, (~~(14)~~) (13) the department
16 of corrections, (~~(15)~~) (14) the department of community development,
17 and (~~(16)~~) (15) the department of health, which shall be charged with
18 the execution, enforcement, and administration of such laws, and
19 invested with such powers and required to perform such duties, as the
20 legislature may provide.

21 **Sec. 17.** RCW 43.17.020 and 1989 1st ex.s. c 9 s 811 are each
22 amended to read as follows:

23 There shall be a chief executive officer of each department to be
24 known as: (1) The secretary of social and health services, (2) the
25 director of ecology, (3) the director of labor and industries, (4) the
26 director of agriculture, (5) (~~the director of fisheries, (6)~~) the
27 director of fish and wildlife, (~~(7)~~) (6) the secretary of
28 transportation, (~~(8)~~) (7) the director of licensing, (~~(9)~~) (8) the
29 director of general administration, (~~(10)~~) (9) the director of trade
30 and economic development, (~~(11)~~) (10) the director of veterans
31 affairs, (~~(12)~~) (11) the director of revenue, (~~(13)~~) (12) the
32 director of retirement systems, (~~(14)~~) (13) the secretary of
33 corrections, (~~(15)~~) (14) the director of community development, and
34 (~~(16)~~) (15) the secretary of health.

35 Such officers, except the secretary of transportation, shall be
36 appointed by the governor, with the consent of the senate, and hold
37 office at the pleasure of the governor. (~~The director of wildlife,~~

1 ~~however, shall be appointed according to the provisions of RCW~~
2 ~~77.04.080. If a vacancy occurs while the senate is not in session, the~~
3 ~~governor shall make a temporary appointment until the next meeting of~~
4 ~~the senate. A temporary director of wildlife shall not serve more than~~
5 ~~one year.))~~ The secretary of transportation shall be appointed by the
6 transportation commission as prescribed by RCW 47.01.041.

7 **Sec. 18.** RCW 42.17.2401 and 1991 c 200 s 404 are each amended to
8 read as follows:

9 For the purposes of RCW 42.17.240, the term "executive state
10 officer" includes:

11 (1) The chief administrative law judge, the director of
12 agriculture, the administrator of the office of marine safety, the
13 administrator of the Washington basic health plan, the director of the
14 department of services for the blind, the director of the state system
15 of community and technical colleges, the director of community
16 development, the secretary of corrections, the director of ecology, the
17 commissioner of employment security, the chairman of the energy
18 facility site evaluation council, the director of the energy office,
19 the secretary of the state finance committee, the director of financial
20 management, the director of ((~~fisheries~~)) fish and wildlife, the
21 executive secretary of the forest practices appeals board, the director
22 of the gambling commission, the director of general administration, the
23 secretary of health, the administrator of the Washington state health
24 care authority, the executive secretary of the health care facilities
25 authority, the executive secretary of the higher education facilities
26 authority, the director of the higher education personnel board, the
27 executive secretary of the horse racing commission, the executive
28 secretary of the human rights commission, the executive secretary of
29 the indeterminate sentence review board, the director of the department
30 of information services, the director of the interagency committee for
31 outdoor recreation, the executive director of the state investment
32 board, the director of labor and industries, the director of licensing,
33 the director of the lottery commission, the director of the office of
34 minority and women's business enterprises, the director of parks and
35 recreation, the director of personnel, the executive director of the
36 public disclosure commission, the director of retirement systems, the
37 director of revenue, the secretary of social and health services, the
38 chief of the Washington state patrol, the executive secretary of the

1 board of tax appeals, the director of trade and economic development,
2 the secretary of transportation, the secretary of the utilities and
3 transportation commission, the director of veterans affairs, ((the
4 ~~director of wildlife,~~)) the president of each of the regional and state
5 universities and the president of The Evergreen State College, each
6 district and each campus president of each state community college;

7 (2) Each professional staff member of the office of the governor;

8 (3) Each professional staff member of the legislature; and

9 (4) Central Washington University board of trustees, board of
10 trustees of each community college, each member of the state board for
11 community and technical colleges ((~~education~~)), state convention and
12 trade center board of directors, committee for deferred compensation,
13 Eastern Washington University board of trustees, Washington economic
14 development finance authority, The Evergreen State College board of
15 trustees, forest practices appeals board, forest practices board,
16 gambling commission, Washington health care facilities authority,
17 higher education coordinating board, higher education facilities
18 authority, higher education personnel board, horse racing commission,
19 state housing finance commission, human rights commission,
20 indeterminate sentence review board, board of industrial insurance
21 appeals, information services board, interagency committee for outdoor
22 recreation, state investment board, liquor control board, lottery
23 commission, marine oversight board, oil and gas conservation committee,
24 Pacific Northwest electric power and conservation planning council,
25 parks and recreation commission, personnel appeals board, personnel
26 board, board of pilotage ((~~commissioners~~)) commissioners, pollution
27 control hearings board, public disclosure commission, public pension
28 commission, shorelines hearing board, state employees' benefits board,
29 board of tax appeals, transportation commission, University of
30 Washington board of regents, utilities and transportation commission,
31 Washington state maritime commission, Washington public power supply
32 system executive board, Washington State University board of regents,
33 Western Washington University board of trustees, and fish and wildlife
34 commission.

35 **Sec. 19.** RCW 43.51.955 and 1987 c 506 s 93 are each amended to
36 read as follows:

37 Nothing in RCW 43.51.946 through 43.51.956 shall be construed to
38 interfere with the powers, duties, and authority of the state

1 department of fish and wildlife or the state fish and wildlife
2 commission to regulate, manage, conserve, and provide for the harvest
3 of wildlife within such area: PROVIDED, HOWEVER, That no hunting shall
4 be permitted in any state park.

5 **Sec. 20.** RCW 75.08.011 and 1990 c 63 s 6 and 1990 c 35 s 3 are
6 each reenacted and amended to read as follows:

7 As used in this title or rules of the director, unless the context
8 clearly requires otherwise:

9 (1) "Director" means the director of (~~(fisheries)~~) fish and
10 wildlife.

11 (2) "Department" means the department of (~~(fisheries)~~) fish and
12 wildlife.

13 (3) "Person" means an individual or a public or private entity or
14 organization. The term "person" includes local, state, and federal
15 government agencies, and all business organizations.

16 (4) "Fisheries patrol officer" means a person appointed and
17 commissioned by the director, with authority to enforce this title,
18 rules of the director, and other statutes as prescribed by the
19 legislature. Fisheries patrol officers are peace officers.

20 (5) "Ex officio fisheries patrol officer" means a commissioned
21 officer of a municipal, county, state, or federal agency having as its
22 primary function the enforcement of criminal laws in general, while the
23 officer is in the appropriate jurisdiction. The term "ex officio
24 fisheries patrol officer" also includes wildlife agents, special agents
25 of the national marine fisheries service, United States fish and
26 wildlife special agents, state parks commissioned officers, department
27 of natural resources enforcement officers, and United States forest
28 service officers, while the agents and officers are within their
29 respective jurisdictions.

30 (6) "To fish" and "to take" and their derivatives mean an effort to
31 kill, injure, harass, or catch food fish or shellfish.

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

35 (8) "Offshore waters" means marine waters of the Pacific Ocean
36 outside the territorial boundaries of the state, including the marine
37 waters of other states and countries.

1 (9) "Concurrent waters of the Columbia river" means those waters of
2 the Columbia river that coincide with the Washington-Oregon state
3 boundary.

4 (10) "Resident" means a person who has for the preceding ninety
5 days maintained a permanent abode within the state, has established by
6 formal evidence an intent to continue residing within the state, and is
7 not licensed to fish as a resident in another state.

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

10 (12) "Food fish" means those species of the classes Osteichthyes,
11 Agnatha, and Chondrichthyes that shall not be fished for except as
12 authorized by rule of the director. The term "food fish" includes all
13 stages of development and the bodily parts of food fish species.

14 (13) "Shellfish" means those species of marine and freshwater
15 invertebrates that shall not be taken except as authorized by rule of
16 the director. The term "shellfish" includes all stages of development
17 and the bodily parts of shellfish species.

18 (14) "Salmon" means all species of the genus *Oncorhynchus*, except
19 those classified as game fish in Title 77 RCW, and includes:

20	Scientific Name	Common Name
21	<i>Oncorhynchus tshawytscha</i>	Chinook salmon
22	<i>Oncorhynchus kisutch</i>	Coho salmon
23	<i>Oncorhynchus keta</i>	Chum salmon
24	<i>Oncorhynchus gorbuscha</i>	Pink salmon
25	<i>Oncorhynchus nerka</i>	Sockeye salmon

26 (15) "Commercial" means related to or connected with buying,
27 selling, or bartering. Fishing for food fish or shellfish with gear
28 unlawful for fishing for personal use, or possessing food fish or
29 shellfish in excess of the limits permitted for personal use are
30 commercial activities.

31 (16) "To process" and its derivatives mean preparing or preserving
32 food fish or shellfish.

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

35 (18) "Angling gear" means a line attached to a rod and reel capable
36 of being held in hand while landing the fish or a hand-held line
37 operated without rod or reel to which are attached no more than two

1 single hooks or one artificial bait with no more than four multiple
2 hooks.

3 (19) "Open season" means those times, manners of taking, and places
4 or waters established by rule of the director for the lawful fishing,
5 taking, or possession of food fish or shellfish. "Open season"
6 includes the first and last days of the established time.

7 (20) "Emerging commercial fishery" means any commercial fishery:

8 (a) For food fish or shellfish so designated by rule of the
9 director, except that no species harvested under a license limitation
10 program contained in chapter 75.30 RCW may be designated as a species
11 in an emerging commercial fishery.

12 (b) Which will include, subject to the limitation in (a) of this
13 subsection, all species harvested for commercial purposes as of June 7,
14 1990, and the future commercial harvest of all other species in the
15 waters of the state of Washington.

16 (21) "Experimental fishery permit" means a permit issued by the
17 director to allow the recipient to engage in an emerging commercial
18 fishery.

19 **Sec. 21.** RCW 75.08.014 and 1983 1st ex.s. c 46 s 6 are each
20 amended to read as follows:

21 The director (~~((of fisheries))~~) shall supervise the administration
22 and operation of the department (~~((of fisheries))~~) and perform the duties
23 prescribed by law. The director may appoint and employ necessary
24 personnel. The director may delegate, in writing, to department
25 personnel the duties and powers necessary for efficient operation and
26 administration of the department.

27 Only persons having general knowledge of the fisheries and wildlife
28 resources and of the commercial and recreational fishing industry in
29 this state are eligible for appointment as director. The director
30 shall not have a financial interest in the fishing industry or a
31 directly related industry.

32 **Sec. 22.** RCW 75.08.035 and 1992 c 63 s 11 are each amended to read
33 as follows:

34 (1) The department (~~((of fisheries))~~) shall have the following powers
35 and duties in carrying out its responsibilities for the senior
36 environmental corps created under RCW 43.63A.247:

37 Appoint a representative to the coordinating council;

1 Develop project proposals;
2 Administer project activities within the agency;
3 Develop appropriate procedures for the use of volunteers;
4 Provide project orientation, technical training, safety training,
5 equipment, and supplies to carry out project activities;
6 Maintain project records and provide project reports;
7 Apply for and accept grants or contributions for corps approved
8 projects; and

9 With the approval of the council, enter into memoranda of
10 understanding and cooperative agreements with federal, state, and local
11 agencies to carry out corps approved projects.

12 (2) The department shall not use corps volunteers to displace
13 currently employed workers.

14 **Sec. 23.** RCW 75.08.055 and 1987 c 506 s 94 are each amended to
15 read as follows:

16 (1) The director(~~(, and the director of wildlife with the~~
17 ~~concurrence of the wildlife commission,~~) may enter into agreements
18 with and receive funds from the United States for the construction,
19 maintenance, and operation of fish cultural stations, laboratories, and
20 devices in the Columbia River basin for improvement of feeding and
21 spawning conditions for fish, for the protection of migratory fish from
22 irrigation projects and for facilitating free migration of fish over
23 obstructions.

24 (2) The director and the (~~wildlife commission~~) department may
25 acquire by gift, purchase, lease, easement, or condemnation the use of
26 lands where the construction or improvement is to be carried on by the
27 United States.

28 **Sec. 24.** RCW 75.08.400 and 1989 c 336 s 1 are each amended to read
29 as follows:

30 The legislature finds that:

31 (1) The fishery resources of Washington are critical to the social
32 and economic needs of the citizens of the state;

33 (2) Salmon production is dependent on both wild and artificial
34 production;

35 (3) The department (~~of fisheries~~) is directed to enhance
36 Washington's salmon runs; and

1 (4) Full utilization of the state's salmon rearing facilities is
2 necessary to enhance commercial and recreational fisheries.

3 **Sec. 25.** RCW 75.10.010 and 1985 c 155 s 1 are each amended to read
4 as follows:

5 (1) Fisheries patrol officers and ex officio fisheries patrol
6 officers within their respective jurisdictions, shall enforce this
7 title, rules of the director, and other statutes as prescribed by the
8 legislature.

9 (2) When acting within the scope of subsection (1) of this section
10 and when an offense occurs in the presence of the fisheries patrol
11 officer who is not an ex officio fisheries patrol officer, the
12 fisheries patrol officer may enforce all criminal laws of the state.
13 The fisheries patrol officer must have successfully completed the basic
14 law enforcement academy course sponsored by the criminal justice
15 training commission, or a supplemental course in criminal law
16 enforcement as approved by the department and the criminal justice
17 training commission and provided by the department or the criminal
18 justice training commission, prior to enforcing the criminal laws of
19 the state.

20 (3) Any liability or claim of liability which arises out of the
21 exercise or alleged exercise of authority by a fisheries patrol officer
22 rests with the department (~~(of fisheries)~~) unless the fisheries patrol
23 officer acts under the direction and control of another agency or
24 unless the liability is otherwise assumed under a written agreement
25 between the department (~~(of fisheries)~~) and another agency.

26 (4) Fisheries patrol officers may serve and execute warrants and
27 processes issued by the courts.

28 **Sec. 26.** RCW 75.10.200 and 1990 c 144 s 3 are each amended to read
29 as follows:

30 Persons who violate this title or the rules of the director shall
31 be subject to the following penalties:

32 (1) The following violations are gross misdemeanors and are
33 punishable under RCW 9.92.020:

34 (a) Violating RCW 75.20.100; and

35 (b) Violating department statutes that require fish screens, fish
36 ladders, and other protective devices for fish.

1 (2) The following violations are a class C felony and are
2 punishable under RCW 9A.20.021(1)(c):

3 (a) Discharging explosives in waters that contain adult salmon or
4 sturgeon: PROVIDED, That lawful discharge of devices for the purpose
5 of frightening or killing marine mammals or for the lawful removal of
6 snags or for actions approved under RCW 75.20.100 or 75.12.070(2) are
7 exempt from this subsection; and

8 (b) To knowingly purchase food fish or shellfish with a wholesale
9 value greater than two hundred fifty dollars that were taken by methods
10 or during times not authorized by department (~~(of fisheries)~~) rules, or
11 were taken by someone who does not have a valid commercial fishing
12 license, a valid fish buyer's license, or a valid wholesale dealer's
13 license, or were taken with fishing gear authorized for personal use.

14 **Sec. 27.** RCW 75.12.040 and 1985 c 147 s 1 are each amended to read
15 as follows:

16 (1) It is unlawful to use, operate, or maintain a gill net which
17 exceeds 250 fathoms in length or a drag seine in the waters of the
18 Columbia river for catching salmon.

19 (2) It is unlawful to construct, install, use, operate, or maintain
20 within state waters a pound net, round haul net, lampara net, fish
21 trap, fish wheel, scow fish wheel, set net, weir, or fixed appliance
22 for catching salmon. The director may authorize the use of this gear
23 for scientific investigations.

24 (3) The department (~~(of fisheries)~~), in coordination with the
25 Oregon department of fish and wildlife, shall adopt rules to regulate
26 the use of monofilament in gill net webbing on the Columbia river.

27 **Sec. 28.** RCW 75.20.005 and 1991 c 322 s 21 are each amended to
28 read as follows:

29 The department of (~~(fisheries, the department of)~~) fish and
30 wildlife, the department of ecology, and the department of natural
31 resources shall jointly develop an informational brochure that
32 describes when permits and any other authorizations are required for
33 flood damage prevention and reduction projects, and recommends ways to
34 best proceed through the various regulatory permitting processes.

35 **Sec. 29.** RCW 75.20.050 and 1988 c 36 s 32 are each amended to read
36 as follows:

1 It is the policy of this state that a flow of water sufficient to
2 support game fish and food fish populations be maintained at all times
3 in the streams of this state.

4 The director of ecology shall give the director (~~(of fisheries and~~
5 ~~the director of wildlife))~~) notice of each application for a permit to
6 divert or store water. The director (~~(of fisheries and director of~~
7 ~~wildlife have))~~) has thirty days after receiving the notice to state
8 (~~(their))~~) his or her objections to the application. The permit shall
9 not be issued until the thirty-day period has elapsed.

10 The director of ecology may refuse to issue a permit if, in the
11 opinion of the director (~~(of fisheries or director of wildlife))~~),
12 issuing the permit might result in lowering the flow of water in a
13 stream below the flow necessary to adequately support food fish and
14 game fish populations in the stream.

15 The provisions of this section shall in no way affect existing
16 water rights.

17 **Sec. 30.** RCW 75.20.100 and 1991 c 322 s 30 are each amended to
18 read as follows:

19 In the event that any person or government agency desires to
20 construct any form of hydraulic project or perform other work that will
21 use, divert, obstruct, or change the natural flow or bed of any of the
22 salt or fresh waters of the state, such person or government agency
23 shall, before commencing construction or work thereon and to ensure the
24 proper protection of fish life, secure the written approval of the
25 department (~~(of fisheries or the department of wildlife))~~) as to the
26 adequacy of the means proposed for the protection of fish life. This
27 approval shall not be unreasonably withheld. Except as provided in RCW
28 75.20.1001 and 75.20.1002, the department (~~(of fisheries or the~~
29 ~~department of wildlife))~~) shall grant or deny approval within forty-five
30 calendar days of the receipt of a complete application and notice of
31 compliance with any applicable requirements of the state environmental
32 policy act, made in the manner prescribed in this section. The
33 applicant may document receipt of application by filing in person or by
34 registered mail. A complete application for approval shall contain
35 general plans for the overall project, complete plans and
36 specifications of the proposed construction or work within the mean
37 higher high water line in salt water or within the ordinary high water
38 line in fresh water, and complete plans and specifications for the

1 proper protection of fish life. The forty-five day requirement shall
2 be suspended if (1) after ten working days of receipt of the
3 application, the applicant remains unavailable or unable to arrange for
4 a timely field evaluation of the proposed project; (2) the site is
5 physically inaccessible for inspection; or (3) the applicant requests
6 delay. Immediately upon determination that the forty-five day period
7 is suspended, the department (~~(of fisheries or the department of~~
8 ~~wildlife))~~) shall notify the applicant in writing of the reasons for the
9 delay. Approval is valid for a period of up to five years from date of
10 issuance. The permittee must demonstrate substantial progress on
11 construction of that portion of the project relating to the approval
12 within two years of the date of issuance. If (~~(either))~~) the department
13 (~~(of fisheries or the department of wildlife))~~) denies approval,
14 (~~(that))~~) the department shall provide the applicant, in writing, a
15 statement of the specific reasons why and how the proposed project
16 would adversely affect fish life. Protection of fish life shall be the
17 only ground upon which approval may be denied or conditioned. Chapter
18 34.05 RCW applies to any denial of project approval, conditional
19 approval, or requirements for project modification upon which approval
20 may be contingent. If any person or government agency commences
21 construction on any hydraulic works or projects subject to this section
22 without first having obtained written approval of the department (~~(of~~
23 ~~fisheries or the department of wildlife))~~) as to the adequacy of the
24 means proposed for the protection of fish life, or if any person or
25 government agency fails to follow or carry out any of the requirements
26 or conditions as are made a part of such approval, the person or
27 director of the agency is guilty of a gross misdemeanor. If any such
28 person or government agency is convicted of violating any of the
29 provisions of this section and continues construction on any such works
30 or projects without fully complying with the provisions hereof, such
31 works or projects are hereby declared a public nuisance and shall be
32 subject to abatement as such.

33 For the purposes of this section and RCW 75.20.103, "bed" shall
34 mean the land below the ordinary high water lines of state waters.
35 This definition shall not include irrigation ditches, canals, storm
36 water run-off devices, or other artificial watercourses except where
37 they exist in a natural watercourse that has been altered by man.

38 The phrase "to construct any form of hydraulic project or perform
39 other work" shall not include the act of driving across an established

1 ford. Driving across streams or on wetted stream beds at areas other
2 than established fords requires approval. Work within the ordinary
3 high water line of state waters to construct or repair a ford or
4 crossing requires approval.

5 ~~((For each application, the department of fisheries and the
6 department of wildlife shall mutually agree on whether the department
7 of fisheries or the department of wildlife shall administer the
8 provisions of this section, in order to avoid duplication of effort.
9 The department designated to act shall cooperate with the other
10 department in order to protect all species of fish life found at the
11 project site. If the department of fisheries or the department of
12 wildlife receives an application concerning a site not in its
13 jurisdiction, it shall transmit the application to the other department
14 within three days and notify the applicant.))~~

15 In case of an emergency arising from weather or stream flow
16 conditions or other natural conditions, the department ~~((of fisheries
17 or department of wildlife))~~, through ~~((their))~~ its authorized
18 representatives, shall issue immediately upon request oral approval for
19 removing any obstructions, repairing existing structures, restoring
20 stream banks, or to protect property threatened by the stream or a
21 change in the stream flow without the necessity of obtaining a written
22 approval prior to commencing work. Conditions of an oral approval
23 shall be reduced to writing within thirty days and complied with as
24 provided for in this section. Oral approval shall be granted
25 immediately upon request, for a stream crossing during an emergency
26 situation.

27 This section shall not apply to the construction of any form of
28 hydraulic project or other work which diverts water for agricultural
29 irrigation or stock watering purposes authorized under or recognized as
30 being valid by the state's water codes, or when such hydraulic project
31 or other work is associated with streambank stabilization to protect
32 farm and agricultural land as defined in RCW 84.34.020. These
33 irrigation or stock watering diversion and streambank stabilization
34 projects shall be governed by RCW 75.20.103.

35 **Sec. 31.** RCW 75.20.1001 and 1991 c 322 s 12 are each amended to
36 read as follows:

37 The department ~~((of fisheries and the department of wildlife))~~
38 shall process hydraulic project applications submitted under RCW

1 75.20.100 or 75.20.103 within thirty days of receipt of the
2 application. This requirement is only applicable for the repair and
3 reconstruction of legally constructed dikes, seawalls, and other flood
4 control structures damaged as a result of flooding or windstorms that
5 occurred in November and December 1990.

6 **Sec. 32.** RCW 75.20.103 and 1991 c 322 s 31 are each amended to
7 read as follows:

8 In the event that any person or government agency desires to
9 construct any form of hydraulic project or other work that diverts
10 water for agricultural irrigation or stock watering purposes, or when
11 such hydraulic project or other work is associated with streambank
12 stabilization to protect farm and agricultural land as defined in RCW
13 84.34.020, and when such diversion or streambank stabilization will
14 use, divert, obstruct, or change the natural flow or bed of any river
15 or stream or will utilize any waters of the state or materials from the
16 stream beds, the person or government agency shall, before commencing
17 construction or work thereon and to ensure the proper protection of
18 fish life, secure a written approval from the department (~~of fisheries~~
19 ~~or the department of wildlife~~) as to the adequacy of the means
20 proposed for the protection of fish life. This approval shall not be
21 unreasonably withheld. Except as provided in RCW 75.20.1001 and
22 75.20.1002, the department (~~of fisheries or the department of~~
23 ~~wildlife~~) shall grant or deny the approval within forty-five calendar
24 days of the receipt of a complete application and notice of compliance
25 with any applicable requirements of the state environmental policy act,
26 made in the manner prescribed in this section. The applicant may
27 document receipt of application by filing in person or by registered
28 mail. A complete application for an approval shall contain general
29 plans for the overall project, complete plans and specifications of the
30 proposed construction or work within ordinary high water line, and
31 complete plans and specifications for the proper protection of fish
32 life. The forty-five day requirement shall be suspended if (1) after
33 ten working days of receipt of the application, the applicant remains
34 unavailable or unable to arrange for a timely field evaluation of the
35 proposed project; (2) the site is physically inaccessible for
36 inspection; or (3) the applicant requests delay.

37 Immediately upon determination that the forty-five day period is
38 suspended, the department (~~of fisheries or the department of~~

1 wildlife)) shall notify the applicant in writing of the reasons for the
2 delay.

3 An approval shall remain in effect without need for periodic
4 renewal for projects that divert water for agricultural irrigation or
5 stock watering purposes and that involve seasonal construction or other
6 work. Approval for streambank stabilization projects shall remain in
7 effect without need for periodic renewal if the problem causing the
8 need for the streambank stabilization occurs on an annual or more
9 frequent basis. The permittee must notify the appropriate agency
10 before commencing the construction or other work within the area
11 covered by the approval.

12 The permittee must demonstrate substantial progress on construction
13 of that portion of the project relating to the approval within two
14 years of the date of issuance. If (~~either~~) the department (~~of~~
15 ~~fisheries or the department of wildlife~~) denies approval, (~~that~~) the
16 department shall provide the applicant, in writing, a statement of the
17 specific reasons why and how the proposed project would adversely
18 affect fish life. Protection of fish life shall be the only ground
19 upon which approval may be denied or conditioned. Issuance, denial,
20 conditioning, or modification shall be appealable to the hydraulic
21 appeals board established in RCW 43.21B.005 within thirty days of the
22 notice of decision. The burden shall be upon the department (~~of~~
23 ~~fisheries or the department of wildlife~~) to show that the denial or
24 conditioning of an approval is solely aimed at the protection of fish
25 life.

26 The department (~~granting approval~~) may, after consultation with
27 the permittee, modify an approval due to changed conditions. The
28 modifications shall become effective unless appealed to the hydraulic
29 appeals board within thirty days from the notice of the proposed
30 modification. The burden is on the department (~~issuing the approval~~)
31 to show that changed conditions warrant the modification in order to
32 protect fish life.

33 A permittee may request modification of an approval due to changed
34 conditions. The request shall be processed within forty-five calendar
35 days of receipt of the written request. A decision by the department
36 (~~that issued the approval~~) may be appealed to the hydraulic appeals
37 board within thirty days of the notice of the decision. The burden is
38 on the permittee to show that changed conditions warrant the requested
39 modification and that such modification will not impair fish life.

1 If any person or government agency commences construction on any
2 hydraulic works or projects subject to this section without first
3 having obtained written approval of the department (~~(of fisheries or~~
4 ~~the department of wildlife))~~) as to the adequacy of the means proposed
5 for the protection of fish life, or if any person or government agency
6 fails to follow or carry out any of the requirements or conditions as
7 are made a part of such approval, the person or director of the agency
8 is guilty of a gross misdemeanor. If any such person or government
9 agency is convicted of violating any of the provisions of this section
10 and continues construction on any such works or projects without fully
11 complying with the provisions hereof, such works or projects are hereby
12 declared a public nuisance and shall be subject to abatement as such.

13 (~~For each application, the department of fisheries and the~~
14 ~~department of wildlife shall mutually agree on whether the department~~
15 ~~of fisheries or the department of wildlife shall administer the~~
16 ~~provisions of this section, in order to avoid duplication of effort.~~
17 ~~The department designated to act shall cooperate with the other~~
18 ~~department in order to protect all species of fish life found at the~~
19 ~~project site. If the department of fisheries or the department of~~
20 ~~wildlife receives an application concerning a site not in its~~
21 ~~jurisdiction, it shall transmit the application to the other department~~
22 ~~within three days and notify the applicant.))~~

23 In case of an emergency arising from weather or stream flow
24 conditions or other natural conditions, the department (~~(of fisheries~~
25 ~~or department of wildlife))~~), through (~~(their))~~) its authorized
26 representatives, shall issue immediately upon request oral approval for
27 removing any obstructions, repairing existing structures, restoring
28 stream banks, or to protect property threatened by the stream or a
29 change in the stream flow without the necessity of obtaining a written
30 approval prior to commencing work. Conditions of an oral approval
31 shall be reduced to writing within thirty days and complied with as
32 provided for in this section.

33 For purposes of this chapter, "streambank stabilization" shall
34 include but not be limited to log and debris removal, bank protection
35 (including riprap, jetties, and groins), gravel removal and erosion
36 control.

37 **Sec. 33.** RCW 75.20.104 and 1991 c 322 s 18 are each amended to
38 read as follows:

1 Whenever the placement of woody debris is required as a condition
2 of a hydraulic permit approval issued pursuant to RCW 75.20.100 or
3 75.20.103, the department (~~of fisheries and the department of~~
4 ~~wildlife~~), upon request, shall invite comment regarding that placement
5 from the local governmental authority, affected tribes, affected
6 federal and state agencies, and the project applicant.

7 **Sec. 34.** RCW 75.20.1041 and 1991 c 322 s 19 are each amended to
8 read as follows:

9 The department (~~of fisheries, the department of wildlife,~~) and
10 the department of ecology will work cooperatively with the United
11 States army corps of engineers to develop a memorandum of agreement
12 outlining dike vegetation management guidelines so that dike owners are
13 eligible for coverage under P.L. 84-99, and state requirements
14 established pursuant to RCW 75.20.100 and 75.20.103 are met.

15 **Sec. 35.** RCW 75.20.106 and 1988 c 36 s 35 are each amended to read
16 as follows:

17 The department (~~of fisheries and the department of wildlife~~) may
18 (~~each~~) levy civil penalties of up to one hundred dollars per day for
19 violation of any provisions of RCW 75.20.100 or 75.20.103. The penalty
20 provided shall be imposed by notice in writing, either by certified
21 mail or personal service to the person incurring the penalty, from the
22 director (~~of the appropriate department~~) or (~~that~~) the director's
23 designee describing the violation. Any person incurring any penalty
24 under this chapter may appeal the same under chapter 34.05 RCW to the
25 director (~~of the department levying the penalty~~). Appeals shall be
26 filed within thirty days of receipt of notice imposing any penalty.
27 The penalty imposed shall become due and payable thirty days after
28 receipt of a notice imposing the penalty unless an appeal is filed.
29 Whenever an appeal of any penalty incurred under this chapter is filed,
30 the penalty shall become due and payable only upon completion of all
31 review proceedings and the issuance of a final order confirming the
32 penalty in whole or in part.

33 If the amount of any penalty is not paid within thirty days after
34 it becomes due and payable the attorney general, upon the request of
35 the director (~~of the department of fisheries or the department of~~
36 ~~wildlife~~) shall bring an action in the name of the state of Washington
37 in the superior court of Thurston county or of any county in which such

1 violator may do business, to recover such penalty. In all such actions
2 the procedure and rules of evidence shall be the same as an ordinary
3 civil action. All penalties recovered under this section shall be paid
4 into the state's general fund.

5 **Sec. 36.** RCW 75.20.110 and 1988 c 36 s 36 are each amended to read
6 as follows:

7 (1) Except for the north fork of the Lewis river and the White
8 Salmon river, all streams and rivers tributary to the Columbia river
9 downstream from McNary dam are established as an anadromous fish
10 sanctuary. This sanctuary is created to preserve and develop the food
11 fish and game fish resources in these streams and rivers and to protect
12 them against undue industrial encroachment.

13 (2) Within the sanctuary area:

14 (a) It is unlawful to construct a dam greater than twenty-five feet
15 high within the migration range of anadromous fish as ~~((jointly))~~
16 determined by the director ~~((of fisheries and the director of~~
17 ~~wildlife))~~.

18 (b) Except by ~~((concurrent))~~ order of the director ~~((of fisheries~~
19 ~~and director of wildlife))~~, it is unlawful to divert water from rivers
20 and streams in quantities that will reduce the respective stream flow
21 below the annual average low flow, based upon data published in United
22 States geological survey reports.

23 (3) The director ~~((of fisheries and the director of wildlife))~~ may
24 acquire and abate a dam or other obstruction, or acquire any water
25 right vested on a sanctuary stream or river, which is in conflict with
26 the provisions of subsection (2) of this section.

27 (4) Subsection (2)(a) of this section does not apply to the
28 sediment retention structure to be built on the North Fork Toutle river
29 by the United States army corps of engineers.

30 **Sec. 37.** RCW 75.20.130 and 1989 c 175 s 160 are each amended to
31 read as follows:

32 (1) There is hereby created within the environmental hearings
33 office under RCW 43.21B.005 the hydraulic appeals board of the state of
34 Washington.

35 (2) The hydraulic appeals board shall consist of three members:
36 The director of the department of ecology or the director's designee,
37 the director of the department of agriculture or the director's

1 designee, and the director or the director's designee of the department
2 whose action is appealed under subsection (6) of this section. A
3 decision must be agreed to by at least two members of the board to be
4 final.

5 (3) The board may adopt rules necessary for the conduct of its
6 powers and duties or for transacting other official business.

7 (4) The board shall make findings of fact and prepare a written
8 decision in each case decided by it, and that finding and decision
9 shall be effective upon being signed by two or more board members and
10 upon being filed at the hydraulic appeals board's principal office, and
11 shall be open to public inspection at all reasonable times.

12 (5) The board has exclusive jurisdiction to hear appeals arising
13 from the approval, denial, conditioning, or modification of a hydraulic
14 approval issued by ((either)) the department ((of fisheries or the
15 department of wildlife)) under the authority granted in RCW 75.20.103
16 for the diversion of water for agricultural irrigation or stock
17 watering purposes or when associated with streambank stabilization to
18 protect farm and agricultural land as defined in RCW 84.34.020.

19 (6)(a) Any person aggrieved by the approval, denial, conditioning,
20 or modification of a hydraulic approval pursuant to RCW 75.20.103 may
21 seek review from the board by filing a request for the same within
22 thirty days of notice of the approval, denial, conditioning, or
23 modification of such approval.

24 (b) The review proceedings authorized in (a) of this subsection are
25 subject to the provisions of chapter 34.05 RCW pertaining to procedures
26 in adjudicative proceedings.

27 **Sec. 38.** RCW 75.20.300 and 1989 c 213 s 3 are each amended to read
28 as follows:

29 (1) The legislature intends to expedite flood-control, acquisition
30 of sites for sediment retention, and dredging operations in those
31 rivers affected by the May 1980 eruption of Mt. St. Helens, while
32 continuing to protect the fish resources of these rivers.

33 (2) The director ((of fisheries and director of wildlife)) shall
34 process hydraulic project applications submitted under RCW 75.20.100
35 within fifteen working days of receipt of the application. This
36 requirement is only applicable to flood control and dredging projects
37 located in the Cowlitz river from mile 22 to the confluence with the
38 Columbia, and in the Toutle river from the mouth to the North Fork

1 Toutle sediment dam site at North Fork mile 12, and to river mile 3 on
2 the South Fork Toutle river, and volcano-affected areas of the Columbia
3 river.

4 (3) For the purposes of this section, the emergency provisions of
5 RCW 75.20.100 may be initiated by the county legislative authority if
6 the project is necessary to protect human life or property from flood
7 hazards, including:

8 (a) Flood fight measures necessary to provide protection during a
9 flood event; or

10 (b) Measures necessary to reduce or eliminate a potential flood
11 threat when other alternative measures are not available or cannot be
12 completed prior to the expected flood threat season; or

13 (c) Measures which must be initiated and completed within an
14 immediate period of time and for which processing of the request
15 through normal methods would cause a delay to the project and such
16 delay would significantly increase the potential for damages from a
17 flood event.

18 (4) This section does not apply to the sediment retention structure
19 to be built on the North Fork Toutle river by the United States army
20 corps of engineers.

21 (5) This section expires on June 30, 1995.

22 **Sec. 39.** RCW 75.20.310 and 1988 c 36 s 39 are each amended to read
23 as follows:

24 The legislature recognizes the need to mitigate the effects of
25 sedimentary build-up and resultant damage to fish population in the
26 Toutle river resulting from the Mt. St. Helens eruption. The state has
27 entered into a contractual agreement with the United States army corps
28 of engineers designed to minimize fish habitat disruption created by
29 the sediment retention structure on the Toutle river, under which the
30 corps has agreed to construct a fish collection facility at the
31 sediment retention structure site conditional upon the state assuming
32 the maintenance and operation costs of the facility. The department
33 (~~(of wildlife and the department of fisheries)~~) shall (~~(cooperatively)~~)
34 operate and maintain a fish collection facility on the Toutle river.
35 (~~(Each agency shall share in the cost of operating and maintaining the~~
36 ~~facility.)~~)

1 **Sec. 40.** RCW 75.24.065 and 1985 c 256 s 2 are each amended to read
2 as follows:

3 The legislature finds that current environmental and economic
4 conditions warrant a renewal of the state's historical practice of
5 actively cultivating and managing its oyster reserves in Puget Sound to
6 produce the state's native oyster, the Olympia oyster. The department
7 (~~of fisheries~~) shall reestablish dike cultivated production of
8 Olympia oysters on such reserves on a trial basis as a tool for
9 planning more comprehensive cultivation by the state.

10 **Sec. 41.** RCW 75.25.005 and 1989 c 305 s 1 are each amended to read
11 as follows:

12 The following recreational fishing licenses are administered and
13 issued by the department (~~of fisheries~~) under authority of the
14 director (~~of fisheries~~):

- 15 (1) Hood Canal shrimp license;
- 16 (2) Razor clam license;
- 17 (3) Personal use fishing license;
- 18 (4) Salmon license; and
- 19 (5) Sturgeon license.

20 **Sec. 42.** RCW 75.25.080 and 1989 c 305 s 4 are each amended to read
21 as follows:

22 (1) It is lawful to dig the personal-use daily bag limit of razor
23 clams for another person if that person has in possession a physical
24 disability permit issued by the director.

25 (2) An application for a physical disability permit must be
26 submitted on a department (~~of fisheries~~) official form and must be
27 accompanied by a licensed medical doctor's certification of disability.

28 **Sec. 43.** RCW 75.25.170 and 1989 c 305 s 16 are each amended to
29 read as follows:

30 Fees received for recreational licenses required under this chapter
31 shall be deposited in the general fund and shall be appropriated for
32 management, enhancement, research, and enforcement purposes of the
33 shellfish, salmon, and marine fish programs of the department (~~of~~
34 ~~fisheries~~)).

1 **Sec. 44.** RCW 75.25.180 and 1989 c 305 s 14 are each amended to
2 read as follows:

3 Recreational licenses issued by the department (~~(of fisheries)~~)
4 under this chapter are valid for the following periods:

5 (1) Recreational licenses issued without charge to persons
6 designated by this chapter are valid:

7 (a) For life for blind persons;

8 (b) For the period of continued state residency for qualified
9 disabled veterans;

10 (c) For the period of continued state residency for persons sixty-
11 five years of age or more;

12 (d) For the period of the disability for persons with a
13 developmental disability;

14 (e) For life for handicapped persons confined to a wheelchair who
15 have been issued a permanent disability card; and

16 (f) Until a child reaches fifteen years of age.

17 (2) Two-consecutive-day personal use licenses expire at midnight on
18 the day following the validation date written on the license by the
19 license dealer, except two-consecutive-day personal use licenses
20 validated for December 31 expire at midnight on that date.

21 (3) An annual salmon license is valid for a maximum catch of
22 fifteen salmon, after which another salmon license may be purchased.
23 A salmon license is valid only for the calendar year for which it is
24 issued.

25 (4) An annual sturgeon license is valid for a maximum catch of
26 fifteen sturgeon. A sturgeon license is valid only for the calendar
27 year for which it is issued.

28 (5) All other recreational licenses are valid for the calendar year
29 for which they are issued.

30 **Sec. 45.** RCW 75.50.010 and 1985 c 458 s 1 are each amended to read
31 as follows:

32 Currently, many of the salmon stocks of Washington state are
33 critically reduced from their sustainable level. The best interests of
34 all fishing groups and the citizens as a whole are served by a stable
35 and productive salmon resource. Immediate action is needed to reverse
36 the severe decline of the resource and to insure its very survival.
37 The legislature finds a state of emergency exists and that immediate
38 action is required to restore its fishery.

1 Disagreement and strife have dominated the salmon fisheries for
2 many years. Conflicts among the various fishing interests have only
3 served to erode the resource. It is time for the state of Washington
4 to make a major commitment to increasing productivity of the resource
5 and to move forward with an effective rehabilitation and enhancement
6 program. The department (~~(of fisheries)~~) is directed to dedicate its
7 efforts (~~(to make increasing the productivity of the salmon resource a~~
8 ~~first priority and)~~) to seek resolution to the many conflicts that
9 involve the resource.

10 Success of the enhancement program can only occur if projects
11 efficiently produce salmon or restore habitat. The expectation of the
12 program is to optimize the efficient use of funding on projects that
13 will increase artificially and naturally produced salmon, restore and
14 improve habitat, or identify ways to increase the survival of salmon.
15 The full utilization of state resources and cooperative efforts with
16 interested groups are essential to the success of the program.

17 **Sec. 46.** RCW 75.50.070 and 1989 c 426 s 1 are each amended to read
18 as follows:

19 The legislature finds that it is in the best interest of the salmon
20 resource of the state to encourage the development of regional
21 fisheries enhancement groups. The accomplishments of one existing
22 group, the Grays Harbor fisheries enhancement task force, have been
23 widely recognized as being exemplary. The legislature recognizes the
24 potential benefits to the state that would occur if each region of the
25 state had a similar group of dedicated citizens working to enhance the
26 salmon resource.

27 The legislature authorizes the formation of regional fisheries
28 enhancement groups. These groups shall be eligible for state financial
29 support and shall be actively supported by the department (~~(of~~
30 ~~fisheries)~~). The regional groups shall be operated on a strictly
31 nonprofit basis, and shall seek to maximize the efforts of volunteer
32 and private donations to improve the salmon resource for all citizens
33 of the state.

34 **Sec. 47.** RCW 75.50.080 and 1989 c 426 s 4 are each amended to read
35 as follows:

1 Regional fisheries enhancement groups, consistent with the long-
2 term regional policy statements developed under RCW 75.50.020, shall
3 seek to:

4 (1) Enhance the salmon resource of the state;

5 (2) Maximize volunteer efforts and private donations to improve the
6 salmon resource for all citizens;

7 (3) Assist the department in achieving the goal to double the
8 state-wide salmon catch by the year 2000 under chapter 214, Laws of
9 1988; and

10 (4) Develop projects designed to supplement the fishery enhancement
11 capability of the department (~~(of fisheries)~~).

12 **Sec. 48.** RCW 75.50.130 and 1992 c 88 s 1 are each amended to read
13 as follows:

14 The director (~~(of fisheries)~~) shall prepare a salmon recovery plan
15 for the Skagit river. The plan shall include strategies for employing
16 displaced timber workers to conduct salmon restoration and other tasks
17 identified in the plan. The plan shall incorporate the best available
18 technology in order to achieve maximum restoration of depressed salmon
19 stocks. The plan must encourage the restoration of natural spawning
20 areas and natural rearing of salmon but must not preclude the
21 development of an active hatchery program.

22 **Sec. 49.** RCW 75.52.010 and 1988 c 36 s 41 are each amended to read
23 as follows:

24 The fish and (~~(game)~~) wildlife resources of the state benefit by
25 the contribution of volunteer recreational and commercial fishing
26 organizations, schools, and other volunteer groups in cooperative
27 projects under agreement with the department (~~(of fisheries or the~~
28 ~~department of wildlife)~~). These projects provide educational
29 opportunities, improve the communication between the natural resources
30 agencies and the public, and increase the fish and game resources of
31 the state. In an effort to increase these benefits and realize the
32 full potential of cooperative projects, the department (~~(of fisheries~~
33 ~~and the department of wildlife each)~~) shall administer a cooperative
34 fish and wildlife enhancement program and enter agreements with
35 volunteer groups relating to the operation of cooperative projects.

1 **Sec. 50.** RCW 75.52.020 and 1988 c 36 s 42 are each amended to read
2 as follows:

3 Unless the context clearly requires otherwise, the definitions in
4 this section apply throughout this chapter.

5 (1) "Volunteer group" means any person or group of persons
6 interested in or party to an agreement with the department (~~(of~~
7 ~~fisheries or the department of wildlife)~~) relating to a cooperative
8 fish or (~~(game)~~) wildlife project.

9 (2) "Cooperative project" means a project conducted by a volunteer
10 group that will benefit the fish, shellfish, game bird, nongame
11 wildlife, or game animal resources of the state and for which the
12 benefits of the project, including fish and (~~(game)~~) wildlife reared
13 and released, are available to all citizens of the state. Indian
14 tribes may elect to participate in cooperative fish and wildlife
15 projects with the department.

16 (3) "Department" means (~~(either)~~) the department of (~~(fisheries or~~
17 ~~the department of)~~) fish and wildlife (~~(, whichever is responsible for~~
18 ~~managing the species of fish or game most affected by the cooperative~~
19 ~~project)~~).

20 **Sec. 51.** RCW 75.52.035 and 1987 c 48 s 1 are each amended to read
21 as follows:

22 The department (~~(of fisheries)~~) may authorize the sale of surplus
23 salmon eggs and carcasses by permitted cooperative projects for the
24 purposes of defraying the expenses of the cooperative project. In no
25 instance shall the department allow a profit to be realized through
26 such sales. The department shall adopt rules to implement this section
27 pursuant to chapter 34.05 RCW.

28 **Sec. 52.** RCW 75.52.100 and 1989 c 85 s 3 are each amended to read
29 as follows:

30 A salmon spawning channel shall be constructed on the Cedar river
31 with the assistance and cooperation of the (~~(state)~~) department (~~(of~~
32 ~~fisheries)~~). The department shall use existing personnel and the
33 volunteer fisheries enhancement program outlined under chapter 75.52
34 RCW to assist in the planning, construction, and operation of the
35 spawning channel.

1 **Sec. 53.** RCW 75.52.110 and 1989 c 85 s 4 are each amended to read
2 as follows:

3 The department (~~(of fisheries)~~) shall chair a technical committee,
4 which shall review the preparation of enhancement plans and
5 construction designs for a Cedar river sockeye spawning channel. The
6 technical committee shall consist of not more than eight members: One
7 representative each from the department (~~(of fisheries)~~), national
8 marine fisheries service, United States fish and wildlife service, and
9 Muckleshoot Indian tribe; and four representatives from the public
10 utility described in RCW 75.52.130. The technical committee will be
11 guided by a policy committee, also to be chaired by the department (~~(of~~
12 ~~fisheries)~~), which shall consist of not more than six members: One
13 representative from the department (~~(of fisheries)~~), one from the
14 Muckleshoot Indian tribe, and one from either the national marine
15 fisheries service or the United States fish and wildlife service; and
16 three representatives from the public utility described in RCW
17 75.52.130. The policy committee shall present a progress report to the
18 senate and house of representatives natural resources and environment
19 committees by January 1, 1990, and shall oversee the operation and
20 evaluation of the spawning channel. The policy committee will continue
21 its oversight until the policy committee concludes that the channel is
22 meeting the production goals specified in RCW 75.52.120.

23 **Sec. 54.** RCW 75.52.160 and 1989 c 85 s 10 are each amended to read
24 as follows:

25 Should the requirements of RCW 75.52.100 through 75.52.160 not be
26 met, the department (~~(of fisheries)~~) shall seek immediate legal
27 clarification of the steps which must be taken to fully mitigate water
28 diversion projects on the Cedar river.

29 **Sec. 55.** RCW 75.58.010 and 1988 c 36 s 43 are each amended to read
30 as follows:

31 (1) The director of agriculture and the director (~~(of fisheries)~~)
32 shall jointly develop a program of disease inspection and control for
33 aquatic farmers as defined in RCW 15.85.020. The program shall be
34 administered by the department (~~(of fisheries)~~) under rules established
35 under this section. The purpose of the program is to protect the
36 aquaculture industry and wildstock fisheries from a loss of
37 productivity due to aquatic diseases or maladies. As used in this

1 section "diseases" means, in addition to its ordinary meaning,
2 infestations of parasites or pests. The disease program may include,
3 but is not limited to, the following elements:

4 (a) Disease diagnosis;

5 (b) Import and transfer requirements;

6 (c) Provision for certification of stocks;

7 (d) Classification of diseases by severity;

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

9 (f) Provision for containment and eradication of high-risk
10 diseases;

11 (g) Provision for destruction of diseased cultured aquatic
12 products;

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

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

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

16 (k) Provision for cooperative consultation service to aquatic
17 farmers; and

18 (l) Provision for disease history records.

19 (2) The director (~~(of fisheries)~~) shall adopt rules implementing
20 this section. However, such rules shall have the prior approval of the
21 director of agriculture and shall provide therein that the director of
22 agriculture has provided such approval. The director of agriculture or
23 the director's designee shall attend the rule-making hearings conducted
24 under chapter 34.05 RCW and shall assist in conducting those hearings.
25 The authorities granted the department (~~(of fisheries)~~) by these rules
26 and by RCW 75.08.080(1)(g), 75.24.080, 75.24.110, 75.28.125, 75.58.020,
27 75.58.030, and 75.58.040 constitute the only authorities of the
28 department (~~(of fisheries)~~) to regulate private sector cultured aquatic
29 products and aquatic farmers as defined in RCW 15.85.020. Except as
30 provided in subsection (3) of this section, no action may be taken
31 against any person to enforce these rules unless the department has
32 first provided the person an opportunity for a hearing. In such a
33 case, if the hearing is requested, no enforcement action may be taken
34 before the conclusion of that hearing.

35 (3) The rules adopted under this section shall specify the
36 emergency enforcement actions that may be taken by the department (~~(of~~
37 ~~fisheries)~~), and the circumstances under which they may be taken,
38 without first providing the affected party with an opportunity for a
39 hearing. Neither the provisions of this subsection nor the provisions

1 of subsection (2) of this section shall preclude the department ((of
2 fisheries)) from requesting the initiation of criminal proceedings for
3 violations of the disease inspection and control rules.

4 (4) It is unlawful for any person to violate the rules adopted
5 under subsection (2) or (3) of this section or to violate RCW
6 75.58.040.

7 (5) In administering the program established under this section,
8 the department ((of fisheries)) shall use the services of a pathologist
9 licensed to practice veterinary medicine.

10 (6) The director in administering the program shall not place
11 constraints on or take enforcement actions in respect to the
12 aquaculture industry that are more rigorous than those placed on the
13 department ((of fisheries, the department of wildlife,)) or other fish-
14 rearing entities.

15 **Sec. 56.** RCW 75.58.020 and 1985 c 457 s 9 are each amended to read
16 as follows:

17 The directors of agriculture and ((fisheries)) fish and wildlife
18 shall jointly adopt by rule, in the manner prescribed in RCW
19 75.58.010(2), a schedule of user fees for the disease inspection and
20 control program established under RCW 75.58.010. The fees shall be
21 established such that the program shall be entirely funded by revenues
22 derived from the user fees by the beginning of the 1987-89 biennium.

23 There is established in the state treasury an account known as the
24 aquaculture disease control account which is subject to appropriation.
25 Proceeds of fees charged under this section shall be deposited in the
26 account. Moneys from the account shall be used solely for
27 administering the disease inspection and control program established
28 under RCW 75.58.010.

29 **Sec. 57.** RCW 75.58.030 and 1988 c 36 s 44 are each amended to read
30 as follows:

31 (1) The director ((of fisheries)) shall consult regarding the
32 disease inspection and control program established under RCW 75.58.010
33 with ((the department of wildlife,)) federal agencies((,)) and Indian
34 tribes to assure protection of state, federal, and tribal aquatic
35 resources and to protect private sector cultured aquatic products from
36 disease that could originate from waters or facilities managed by those
37 agencies.

1 (2) With regard to the program, the director (~~((of fisheries))~~) may
2 enter into contracts or interagency agreements for diagnostic field
3 services with government agencies and institutions of higher education
4 and private industry.

5 (3) The director (~~((of fisheries))~~) shall provide for the creation
6 and distribution of a roster of biologists having a speciality in the
7 diagnosis or treatment of diseases of fish or shellfish. The director
8 shall adopt rules specifying the qualifications which a person must
9 have in order to be placed on the roster.

10 **Sec. 58.** RCW 75.58.040 and 1988 c 36 s 45 are each amended to read
11 as follows:

12 All aquatic farmers as defined in RCW 15.85.020 shall register with
13 the department (~~((of fisheries))~~). The director shall develop and
14 maintain a registration list of all aquaculture farms. Registered
15 aquaculture farms shall provide the department production statistical
16 data. The state veterinarian (~~((and the department of wildlife))~~) shall
17 be provided with registration and statistical data by the department.

18 **Sec. 59.** RCW 77.04.020 and 1987 c 506 s 4 are each amended to read
19 as follows:

20 The department (~~((of wildlife))~~) consists of the state fish and
21 wildlife commission and the director (~~((of wildlife))~~). The director is
22 responsible for the administration and operation of the department,
23 subject to the provisions of this title. The commission may delegate
24 to the director additional duties and powers necessary and appropriate
25 to carry out this title. The director shall perform the duties
26 prescribed by law and shall carry out the basic goals and objectives
27 prescribed pursuant to RCW 77.04.055.

28 **Sec. 60.** RCW 77.04.030 and 1987 c 506 s 5 are each amended to read
29 as follows:

30 The state wildlife commission consists of (~~((six))~~) nine registered
31 voters of the state. In January of each odd-numbered year, the
32 governor shall appoint with the advice and consent of the senate two
33 registered voters to the commission to serve for terms of six years
34 from that January or until their successors are appointed and
35 qualified. If a vacancy occurs on the commission prior to the
36 expiration of a term, the governor shall appoint a registered voter

1 within sixty days to complete the term. Three members shall be
2 residents of that portion of the state lying east of the summit of the
3 Cascade mountains, and three shall be residents of that portion of the
4 state lying west of the summit of the Cascade mountains. Three
5 additional members shall be appointed at-large effective July 1, 1993;
6 one of whom shall serve a one and one-half year term to end December
7 31, 1994; one of whom shall serve a three and one-half year term to end
8 December 31, 1996; and one of whom shall serve a five and one-half year
9 term to end December 31, 1998. Thereafter all members are to serve a
10 six-year term. No two members may be residents of the same county.
11 The legal office of the commission is at the administrative office of
12 the department in Olympia.

13 **Sec. 61.** RCW 77.04.040 and 1987 c 506 s 6 are each amended to read
14 as follows:

15 Persons eligible for appointment as members of the commission shall
16 have general knowledge of the habits and distribution of game fish and
17 wildlife and shall not hold another state, county, or municipal
18 elective or appointive office. In making these appointments, the
19 governor shall seek to maintain a balance reflecting all aspects of
20 game fish and wildlife. Persons eligible for appointment as wildlife
21 commissioners shall not have a monetary interest in any private
22 business that is involved with consumptive or nonconsumptive use of
23 game fish or wildlife.

24 **Sec. 62.** RCW 77.04.055 and 1990 c 84 s 2 are each amended to read
25 as follows:

26 ~~(1) ((In addition to any other duties and responsibilities, the~~
27 ~~commission shall establish, and periodically review with the governor~~
28 ~~and the legislature, the department's basic goals and objectives to~~
29 ~~preserve, protect, and perpetuate wildlife and wildlife habitat. The~~
30 ~~commission shall maximize hunting and fishing recreational~~
31 ~~opportunities))~~ In establishing policies to preserve, protect, and
32 perpetuate wildlife, game fish, and wildlife and game fish habitat, the
33 commission shall meet annually with the governor to:

34 (a) Review and prescribe basic goals and objectives related to
35 those policies; and

36 (b) Review the performance of the department in implementing game
37 fish and wildlife policies.

1 The commission shall maximize game fish, hunting, and outdoor
2 recreational opportunities compatible with healthy and diverse fish and
3 wildlife populations.

4 (2) The commission shall establish hunting, trapping, and fishing
5 seasons and prescribe the time, place, manner, and methods that may be
6 used to harvest or enjoy game fish and wildlife.

7 **Sec. 63.** RCW 77.04.060 and 1987 c 506 s 8 and 1987 c 114 s 1 are
8 each reenacted and amended to read as follows:

9 The commission shall hold at least one regular meeting during the
10 first two months of each calendar quarter, and special meetings when
11 called by the ~~((chairman or))~~ chair and by ~~((four))~~ five members.
12 ~~((Four))~~ Five members constitute a quorum for the transaction of
13 business.

14 The commission at a meeting in each odd-numbered year shall elect
15 one of its members as chairman and another member as vice chairman,
16 each of whom shall serve for a term of two years or until a successor
17 is elected and qualified.

18 Members of the commission shall be compensated in accordance with
19 RCW 43.03.250. In addition, members are allowed their travel expenses
20 incurred while absent from their usual places of residence in
21 accordance with RCW 43.03.050 and 43.03.060.

22 **Sec. 64.** RCW 77.04.080 and 1987 c 506 s 9 are each amended to read
23 as follows:

24 Persons eligible for appointment by the governor as director shall
25 have practical knowledge of the habits and distribution of fish and
26 wildlife. The governor shall seek recommendations from the commission
27 on the qualifications, skills, and experience necessary to discharge
28 the duties of the position. When considering and selecting the
29 director, the governor shall consult with and be advised by the
30 commission. The director shall receive the salary fixed by the
31 governor under RCW 43.03.040.

32 The director is the ex officio secretary of the commission and
33 shall attend its meetings and keep a record of its business.

34 The director may appoint and employ necessary departmental
35 personnel. The director may delegate to department personnel the
36 duties and powers necessary for efficient operation and administration

1 of the department. The department shall provide staff for the
2 commission.

3 **Sec. 65.** RCW 77.04.100 and 1985 c 208 s 2 are each amended to read
4 as follows:

5 The director(~~(, in cooperation with the director of fisheries)~~)
6 shall develop proposals to reinstate the natural salmon and steelhead
7 trout fish runs in the Tilton and upper Cowlitz rivers in accordance
8 with RCW 75.08.020(3).

9 **Sec. 66.** RCW 77.08.010 and 1989 c 297 s 7 are each amended to read
10 as follows:

11 As used in this title or rules adopted pursuant to this title,
12 unless the context clearly requires otherwise:

13 (1) "Director" means the director of fish and wildlife.

14 (2) "Department" means the department of fish and wildlife.

15 (3) "Commission" means the state fish and wildlife commission.

16 (4) "Person" means and includes an individual, a corporation, or a
17 group of two or more individuals acting with a common purpose whether
18 acting in an individual, representative, or official capacity.

19 (5) "Wildlife agent" means a person appointed and commissioned by
20 the director, with authority to enforce laws and rules adopted pursuant
21 to this title, and other statutes as prescribed by the legislature.

22 (6) "Ex officio wildlife agent" means a commissioned officer of a
23 municipal, county, state, or federal agency having as its primary
24 function the enforcement of criminal laws in general, while the officer
25 is in the appropriate jurisdiction. The term "ex officio wildlife
26 agent" includes fisheries patrol officers, special agents of the
27 national marine fisheries (~~commission~~) service, state parks
28 commissioned officers, United States fish and wildlife special agents,
29 department of natural resources enforcement officers, and United States
30 forest service officers, while the agents and officers are within their
31 respective jurisdictions.

32 (7) "To hunt" and its derivatives means an effort to kill, injure,
33 capture, or harass a wild animal or wild bird.

34 (8) "To trap" and its derivatives means a method of hunting using
35 devices to capture wild animals or wild birds.

36 (9) "To fish" and its derivatives means an effort to kill, injure,
37 harass, or catch a game fish.

1 (10) "Open season" means those times, manners of taking, and places
2 or waters established by rule of the commission for the lawful hunting,
3 fishing, or possession of game animals, game birds, or game fish.
4 "Open season" includes the first and last days of the established time.

5 (11) "Closed season" means all times, manners of taking, and places
6 or waters other than those established as an open season.

7 (12) "Closed area" means a place where the hunting of some species
8 of wild animals or wild birds is prohibited.

9 (13) "Closed waters" means all or part of a lake, river, stream, or
10 other body of water, where fishing for game fish is prohibited.

11 (14) "Game reserve" means a closed area where hunting for all wild
12 animals and wild birds is prohibited.

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

17 (16) "Wildlife" means all species of the animal kingdom whose
18 members exist in Washington in a wild state. This includes but is not
19 limited to mammals, birds, reptiles, amphibians, fish, and
20 invertebrates. The term "wildlife" does not include feral domestic
21 mammals, the family Muridae of the order Rodentia (old world rats and
22 mice), or those fish, shellfish, and marine invertebrates classified as
23 food fish or shellfish by the director (~~(of fisheries)~~). The term
24 "wildlife" includes all stages of development and the bodily parts of
25 wildlife members.

26 (17) "Wild animals" means those species of the class Mammalia whose
27 members exist in Washington in a wild state and the species Rana
28 catesbeiana (bullfrog). The term "wild animal" does not include feral
29 domestic mammals or the family Muridae of the order Rodentia (old world
30 rats and mice).

31 (18) "Wild birds" means those species of the class Aves whose
32 members exist in Washington in a wild state.

33 (19) "Protected wildlife" means wildlife designated by the
34 commission that shall not be hunted or fished.

35 (20) "Endangered species" means wildlife designated by the
36 commission as seriously threatened with extinction.

37 (21) "Game animals" means wild animals that shall not be hunted
38 except as authorized by the commission.

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

3 (23) "Game birds" means wild birds that shall not be hunted except
4 as authorized by the commission.

5 (24) "Predatory birds" means wild birds that may be hunted
6 throughout the year as authorized by the commission.

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

10 (26) "Game farm" means property on which wildlife is held or raised
11 for commercial purposes, trade, or gift. The term "game farm" does not
12 include publicly owned facilities.

13 (27) "Person of disability" means a permanently disabled person who
14 is not ambulatory without the assistance of a wheelchair, crutches, or
15 similar devices.

16 **Sec. 67.** RCW 77.12.055 and 1988 c 36 s 50 are each amended to read
17 as follows:

18 (1) Jurisdiction and authority granted under RCW 77.12.060,
19 77.12.070, and 77.12.080 to the director, wildlife agents, and ex
20 officio wildlife agents is limited to the laws and rules adopted
21 pursuant to this title pertaining to wildlife or to the management,
22 operation, maintenance, or use of or conduct on real property used,
23 owned, leased, or controlled by the department and other statutes as
24 prescribed by the legislature. However, when acting within the scope
25 of these duties and when an offense occurs in the presence of the
26 wildlife agent who is not an ex officio wildlife agent, the wildlife
27 agent may enforce all criminal laws of the state. The wildlife agent
28 must have successfully completed the basic law enforcement academy
29 course sponsored by the criminal justice training commission, or a
30 supplemental course in criminal law enforcement as approved by the
31 department and the criminal justice training commission and provided by
32 the department or the criminal justice training commission, prior to
33 enforcing the criminal laws of the state.

34 (2) Wildlife agents are peace officers.

35 (3) Any liability or claim of liability which arises out of the
36 exercise or alleged exercise of authority by a wildlife agent rests
37 with the department unless the wildlife agent acts under the direction
38 and control of another agency or unless the liability is otherwise

1 assumed under a written agreement between the department ((of
2 wildlife)) and another agency.

3 (4) Wildlife agents may serve and execute warrants and processes
4 issued by the courts.

5 **Sec. 68.** RCW 77.12.103 and 1989 c 314 s 3 are each amended to read
6 as follows:

7 (1) The burden of proof of any exemption or exception to seizure or
8 forfeiture of personal property involved with wildlife offenses is upon
9 the person claiming it.

10 (2) An authorized state, county, or municipal officer may be
11 subject to civil liability under RCW 77.12.101 for willful misconduct
12 or gross negligence in the performance of his or her duties.

13 (3) The director ((of wildlife)), the fish and wildlife commission,
14 or the department ((of wildlife)) may be subject to civil liability for
15 their willful or reckless misconduct in matters involving the seizure
16 and forfeiture of personal property involved with wildlife offenses.

17 **Sec. 69.** RCW 77.12.440 and 1987 c 506 s 47 are each amended to
18 read as follows:

19 The state assents to the act of congress entitled: "An Act to
20 provide that the United States shall aid the states in fish restoration
21 and management projects, and for other purposes," (64 Stat. 430; 16
22 U.S.C. Sec. 777). The department ((of wildlife and the department of
23 fisheries)) shall establish, conduct, and maintain fish restoration and
24 management projects, as defined in the act, and shall comply with the
25 act and related rules adopted by the secretary of the interior.

26 **Sec. 70.** RCW 77.12.710 and 1990 c 110 s 2 are each amended to read
27 as follows:

28 The legislature hereby directs the department ((of wildlife)) to
29 determine the feasibility and cost of doubling the state-wide game fish
30 production by the year 2000. The department shall seek to equalize the
31 effort and investment expended on anadromous and resident game fish
32 programs. The department ((of wildlife)) shall provide the legislature
33 with a specific plan for legislative approval that will outline the
34 feasibility of increasing game fish production by one hundred percent
35 over current levels by the year 2000. The plan shall contain specific
36 provisions to increase both hatchery and naturally spawning game fish

1 to a level that will support the production goal established in this
2 section consistent with ((wildlife commission)) department policies.
3 Steelhead trout, searun cutthroat trout, resident trout, and warmwater
4 fish producing areas of the state shall be included in the plan. The
5 department ((of wildlife)) shall provide the plan to the house of
6 representatives and senate ways and means, environment and natural
7 resources, environmental affairs, fisheries and wildlife, and natural
8 resources committees by December 31, 1990.

9 The plan shall include the following critical elements:

10 (1) Methods of determining current catch and production, and catch
11 and production in the year 2000;

12 (2) Methods of involving fishing groups, including Indian tribes,
13 in a cooperative manner;

14 (3) Methods for using low capital cost projects to produce game
15 fish as inexpensively as possible;

16 (4) Methods for renovating and modernizing all existing hatcheries
17 and rearing ponds to maximize production capability;

18 (5) Methods for increasing the productivity of natural spawning
19 game fish;

20 (6) Application of new technology to increase hatchery and natural
21 productivity;

22 (7) Analysis of the potential for private contractors to produce
23 game fish for public fisheries;

24 (8) Methods to optimize public volunteer efforts and cooperative
25 projects for maximum efficiency;

26 (9) Methods for development of trophy game fish fisheries;

27 (10) Elements of coordination with the Pacific Northwest Power
28 Council programs to ensure maximum Columbia river benefits;

29 (11) The role that should be played by private consulting companies
30 in developing and implementing the plan;

31 (12) Coordination with federal fish and wildlife agencies, Indian
32 tribes, and department ((of fisheries)) fish production programs;

33 (13) Future needs for game fish predator control measures;

34 (14) Development of disease control measures;

35 (15) Methods for obtaining access to waters currently not available
36 to anglers; and

37 (16) Development of research programs to support game fish
38 management and enhancement programs.

1 The department (~~of wildlife~~), in cooperation with the department
2 of revenue, shall assess various funding mechanisms and make
3 recommendations to the legislature in the plan. The department (~~of
4 wildlife~~), in cooperation with the department of trade and economic
5 development, shall prepare an analysis of the economic benefits to the
6 state that will occur when the game fish production is increased by one
7 hundred percent in the year 2000.

8 **Sec. 71.** RCW 77.12.730 and 1990 c 195 s 3 are each amended to read
9 as follows:

10 (1) A ten-member firearms range advisory committee is hereby
11 created to provide advice and counsel to the interagency committee for
12 outdoor recreation. The members shall be appointed by the director of
13 the interagency committee for outdoor recreation from the following
14 groups:

- 15 (a) Law enforcement;
- 16 (b) Washington military department;
- 17 (c) Black powder shooting sports;
- 18 (d) Rifle shooting sports;
- 19 (e) Pistol shooting sports;
- 20 (f) Shotgun shooting sports;
- 21 (g) Archery shooting sports;
- 22 (h) Hunter education;
- 23 (i) Hunters; and
- 24 (j) General public.

25 (2) The firearms range advisory committee members shall serve two-
26 year terms with five new members being selected each year beginning
27 with the third year of the committee's existence. The firearms range
28 advisory committee members shall not receive compensation from the
29 firearms range account. However, travel and per diem costs shall be
30 paid consistent with regulations for state employees.

31 (3) The interagency committee for outdoor recreation shall provide
32 administrative, operational, and logistical support for the firearms
33 range advisory committee. Expenses directly incurred for supporting
34 this program may be charged by the interagency committee for outdoor
35 recreation against the firearms range account. Expenses shall not
36 exceed ten percent of the yearly income for the range account.

37 (4) The interagency committee for outdoor recreation shall in
38 cooperation with the firearms range advisory committee:

- 1 (a) Develop an application process;
- 2 (b) Develop an audit and accountability program;
- 3 (c) Screen, prioritize, and approve grant applications; and
- 4 (d) Monitor compliance by grant recipients.

5 (5) The department of natural resources, the department of fish and
6 wildlife, and the Washington military department are encouraged to
7 provide land, facilitate land exchanges, and support the development of
8 shooting range facilities.

9 **Sec. 72.** RCW 77.12.750 and 1992 c 63 s 13 are each amended to read
10 as follows:

11 (1) The department (~~(of wildlife)~~) shall have the following powers
12 and duties in carrying out its responsibilities for the senior
13 environmental corps created under RCW 43.63A.247:

14 Appoint a representative to the coordinating council;

15 Develop project proposals;

16 Administer project activities within the agency;

17 Develop appropriate procedures for the use of volunteers;

18 Provide project orientation, technical training, safety training,
19 equipment, and supplies to carry out project activities;

20 Maintain project records and provide project reports;

21 Apply for and accept grants or contributions for corps approved
22 projects; and

23 With the approval of the council, enter into memoranda of
24 understanding and cooperative agreements with federal, state, and local
25 agencies to carry out corps approved projects.

26 (2) The department shall not use corps volunteers to displace
27 currently employed workers.

28 **Sec. 73.** RCW 77.16.060 and 1987 c 506 s 61 are each amended to
29 read as follows:

30 It is unlawful to lay, set, or use a net or other device capable of
31 taking game fish in the waters of this state except as authorized by
32 the commission or director (~~(of fisheries)~~). Game fish taken
33 incidental to a lawful season established by the director (~~(of~~
34 ~~fisheries)~~) shall be returned immediately to the water.

35 A landing net may be used to land fish otherwise legally hooked.

1 **Sec. 74.** RCW 77.16.135 and 1991 c 211 s 1 are each amended to read
2 as follows:

3 (1) The director shall revoke all licenses and privileges extended
4 under Title 77 RCW of a person convicted of assault on a state wildlife
5 agent or other law enforcement officer provided that:

6 (a) The wildlife agent or other law enforcement officer was on duty
7 at the time of the assault; and

8 (b) The wildlife agent or other law enforcement officer was
9 enforcing the provisions of Title 77 RCW.

10 (2) For the purposes of this section, the definition of assault
11 includes:

12 (a) RCW 9A.32.030; murder in the first degree;

13 (b) RCW 9A.32.050; murder in the second degree;

14 (c) RCW 9A.32.060; manslaughter in the first degree;

15 (d) RCW 9A.32.070; manslaughter in the second degree;

16 (e) RCW 9A.36.011; assault in the first degree;

17 (f) RCW 9A.36.021; assault in the second degree; and

18 (g) RCW 9A.36.031; assault in the third degree.

19 (3) For the purposes of this section, a conviction includes:

20 (a) A determination of guilt by the court;

21 (b) The entering of a guilty plea to the charge or charges by the
22 accused;

23 (c) A forfeiture of bail or a vacation of bail posted to the court;

24 or

25 (d) The imposition of a deferred or suspended sentence by the
26 court.

27 (4) No license described under Title 77 RCW shall be reissued to a
28 person violating this section for a minimum of ten years, at ((that
29 [which])) which time a person may petition the director ((of wildlife))
30 for a reinstatement of his or her license or licenses. The ten-year
31 period shall be tolled during any time the convicted person is
32 incarcerated in any state or local correctional or penal institution,
33 in community supervision, or home detention for an offense under this
34 section. Upon review by the director, and if all provisions of the
35 court that imposed sentencing have been completed, the director may
36 reinstate in whole or in part the licenses and privileges under Title
37 77 RCW.

1 **Sec. 75.** RCW 77.16.170 and 1988 c 36 s 51 are each amended to read
2 as follows:

3 It is unlawful to take a wild animal from another person's trap
4 without permission, or to spring, pull up, damage, possess, or destroy
5 the trap; however, it is not unlawful for a property owner, lessee, or
6 tenant to remove a trap placed on the owner's, lessee's, or tenant's
7 property by a trapper.

8 Trappers shall attach to the chain of their traps or devices a
9 legible metal tag with either the department ((~~of wildlife~~))
10 identification number of the trapper or the name and address of the
11 trapper in English letters not less than one-eighth inch in height.

12 When an individual presents a trapper identification number to the
13 department ((~~of wildlife~~)) and requests identification of the trapper,
14 the department ((~~of wildlife~~)) shall provide the individual with the
15 name and address of the trapper. Prior to disclosure of the trapper's
16 name and address, the department ((~~of wildlife~~)) shall obtain the name
17 and address of the requesting individual in writing and after
18 disclosing the trapper's name and address to the requesting individual,
19 the requesting individual's name and address shall be disclosed in
20 writing to the trapper whose name and address was disclosed.

21 **Sec. 76.** RCW 77.18.010 and 1991 c 253 s 2 are each amended to read
22 as follows:

23 Unless the context clearly requires otherwise, the definitions in
24 this section apply throughout this chapter.

25 (1) "Department" means the ((~~Washington~~)) department of fish and
26 wildlife.

27 (2) "Contract" means an agreement setting at a minimum, price,
28 quantity of fish to be delivered, time of delivery, and fish health
29 requirements.

30 (3) "Fish health requirements" means those site specific fish
31 health and genetic requirements actually used by the department of fish
32 and wildlife in fish stocking.

33 (4) "Aquatic farmer" means a private sector person who commercially
34 farms and manages private sector cultured aquatic products on the
35 person's own land or on land in which the person has a present right of
36 possession.

37 (5) "Person" means a natural person, corporation, trust, or other
38 legal entity.

1 **Sec. 77.** RCW 77.32.380 and 1991 sp.s. c 7 s 12 are each amended to
2 read as follows:

3 Persons sixteen years of age or older who use clearly identified
4 department lands and access facilities are required to possess a
5 conservation license or a hunting, fishing, trapping, or free license
6 on their person while using the facilities. The fee for this license
7 is ten dollars annually.

8 The spouse, all children under eighteen years of age, and guests
9 under eighteen years of age of the holder of a valid conservation
10 license may use department lands and access facilities when accompanied
11 by the license holder.

12 Youth groups may use department lands and game access facilities
13 without possessing a conservation license when accompanied by a license
14 holder.

15 The conservation license is nontransferable and must be validated
16 by the signature of the holder. Upon request of a wildlife agent or ex
17 officio wildlife agent a person using clearly identified department
18 (~~of wildlife~~) lands shall exhibit the required license.

19 NEW SECTION. **Sec. 78.** A new section is added to chapter 77.12 RCW
20 to read as follows:

21 Steelhead trout shall be managed solely as a recreational fishery
22 for non-Indian fishermen under the rule-setting authority of the fish
23 and wildlife commission.

24 Commercial non-Indian steelhead fisheries are not authorized.

25 NEW SECTION. **Sec. 79.** On July 1, 1994, the state treasurer shall
26 follow the recommendations of the director of financial management on
27 the disbursement of funds from the state wildlife fund to the
28 department of fish and wildlife solely for the purposes of funding
29 programs for wildlife and game fish. Funds from the state wildlife
30 fund shall be used only for the department of fish and wildlife after
31 June 30, 1994.

32 NEW SECTION. **Sec. 80.** The following acts or parts of acts are
33 each repealed:

34 (1) RCW 43.131.375 and 1991 c 253 s 5; and

35 (2) RCW 43.131.376 and 1991 c 253 s 6.

1 NEW SECTION. **Sec. 81.** Sections 1 through 6 of this act shall
2 constitute a new chapter in Title 43 RCW.

3 NEW SECTION. **Sec. 82.** The legislature finds that recreational
4 fishing opportunities for salmon and marine bottomfish have been
5 dwindling in recent years. It is important to restore diminished
6 recreational fisheries and to enhance the salmon and marine bottomfish
7 resource to assure sustained productivity. Investments made in
8 recreational fishing programs will repay the people of the state many
9 times over in increased economic activity and in an improved quality of
10 life.

11 NEW SECTION. **Sec. 83.** There is created within the department of
12 fish and wildlife the Puget Sound recreational salmon and marine fish
13 enhancement program. The department of fish and wildlife shall
14 identify a coordinator for the program who shall act as spokesperson
15 for the program and shall:

16 (1) Coordinate the activities of the Puget Sound recreational
17 salmon and marine fish enhancement program, including the Lake
18 Washington salmon fishery;

19 (2) Provide reports as needed to the legislature and the public;
20 and

21 (3) Work within and outside of the department to achieve the goals
22 stated in this chapter.

23 NEW SECTION. **Sec. 84.** The department shall: Develop a short-term
24 program of hatchery-based salmon enhancement using freshwater pond
25 sites for the final rearing phase; solicit support from cooperative
26 projects, regional enhancement groups, and other supporting
27 organizations; conduct comprehensive research on resident and migratory
28 salmon production opportunities; and conduct research on marine
29 bottomfish production limitations and on methods for artificial
30 propagation of marine bottomfish.

31 Long-term responsibilities of the department are to: Fully
32 implement enhancement efforts for Puget Sound and Hood Canal resident
33 salmon and marine bottomfish; identify opportunities to reestablish
34 salmon runs into areas where they no longer exist; encourage naturally
35 spawning salmon populations to develop to their fullest extent; and
36 fully utilize hatchery programs to improve recreational fishing.

1 NEW SECTION. **Sec. 85.** The department shall seek recommendations
2 from persons who are expert on the planning and operation of programs
3 for enhancement of recreational fisheries. The department shall fully
4 use the expertise of the University of Washington college of fisheries
5 and the sea grant program to develop research and enhancement programs.

6 NEW SECTION. **Sec. 86.** The department shall develop new locations
7 for the freshwater rearing of delayed-release chinook salmon. In
8 calendar year 1994, at least one freshwater pond chinook salmon rearing
9 site shall be developed and begin production in each of the following
10 areas: South Puget Sound, central Puget Sound, north Puget Sound, and
11 Hood Canal. Natural or artificial pond sites shall be preferred to net
12 pens due to higher survival rates experienced from pond rearing.
13 Rigorous predatory bird control measures shall be implemented. The
14 goal of the program is to increase the production and planting of
15 delayed release chinook salmon to a level of three million fish
16 annually by the year 2000.

17 NEW SECTION. **Sec. 87.** The department shall conduct research,
18 develop methods, and implement programs for the artificial rearing and
19 release of marine bottomfish species. Lingcod, halibut, rockfish, and
20 Pacific cod shall be the species of primary emphasis due to their
21 importance in the recreational fishery.

22 NEW SECTION. **Sec. 88.** The department shall undertake additional
23 research to more fully evaluate improved enhancement techniques,
24 hooking mortality rates, methods of mass marking, improvement of catch
25 models, and sources of marine bottomfish mortality. Research shall be
26 designed to give the best opportunity to provide information that can
27 be applied to real-world recreational fishing needs.

28 NEW SECTION. **Sec. 89.** The department shall work with the
29 department of ecology, the department of wildlife, and local government
30 entities to streamline the siting process for new enhancement projects.
31 The department is encouraged to work with the legislature to develop
32 statutory changes that enable expeditious processing and granting of
33 permits for fish enhancement projects.

1 NEW SECTION. **Sec. 90.** The department's information and education
2 section shall develop a public awareness program designed to educate
3 the public on the elements of the recreational fishing program and to
4 recruit volunteers to assist the department in implementing
5 recreational fishing projects. Economic benefits of the program shall
6 be emphasized.

7 NEW SECTION. **Sec. 91.** The department shall increase efforts to
8 document the effects of bird predators, harbor seals, sea lions, and
9 predatory fish upon the salmon and marine fish resource. Every
10 opportunity shall be explored to convince the federal government to
11 amend the marine mammal protection act to allow for balanced management
12 of predators, as well as to work with the United States fish and
13 wildlife service to achieve workable control measures for predatory
14 birds.

15 NEW SECTION. **Sec. 92.** Indian tribal fishing interests and non-
16 Indian commercial fishing groups shall be invited to participate in
17 development of plans for selective fisheries that target hatchery-
18 produced fish and minimize catch of naturally spawned fish. In
19 addition, talks shall be initiated on the feasibility of altering the
20 rearing programs of department hatcheries to achieve higher survival
21 and greater production of chinook and coho salmon.

22 NEW SECTION. **Sec. 93.** The department shall coordinate the sport
23 fishing program with the wild stock initiative to assure that the two
24 programs are compatible and potential conflicts are avoided.

25 NEW SECTION. **Sec. 94.** The department shall develop plans for
26 increased recreational access to salmon and marine fish resources.
27 Proposals for new boat launching ramps and pier fishing access shall be
28 developed.

29 NEW SECTION. **Sec. 95.** The department shall contract with private
30 consultants, aquatic farms, or construction firms, where appropriate,
31 to achieve the highest benefit-to-cost ratio for recreational fishing
32 projects.

1 ***NEW SECTION.** *Sec. 96. The requirements and provisions of this*
2 *chapter are to be performed in addition to and not at the expense of*
3 *existing salmon programs of the department. Nothing in this chapter*
4 *shall be construed to authorize the department to advocate or to*
5 *improve recreational fishing at the expense of commercial fishing or to*
6 *increase recreational enhancement to the detriment of commercial*
7 *enhancement.*

8 **Sec. 96 was vetoed, see message at end of chapter.*

9 **NEW SECTION.** **Sec. 97.** Beginning January 1, 1994, persons who
10 recreationally fish for salmon or marine bottomfish in marine area
11 codes 5 through 13 and Lake Washington shall be assessed an annual
12 recreational surcharge of ten dollars, in addition to other licensing
13 requirements. Funds from the surcharge shall be deposited in the
14 recreational fisheries enhancement account created in section 98 of
15 this act, except that the first five hundred thousand dollars shall be
16 deposited in the general fund before June 30, 1995, to repay the
17 appropriation made by section 104, chapter, Laws of 1993
18 (section 104 of this act).

19 **NEW SECTION.** **Sec. 98.** The recreational fisheries enhancement
20 account is created in the state treasury. All receipts from section 97
21 of this act shall be deposited into the account. Moneys in the account
22 may be spent only after appropriation. Expenditures from the account
23 may be used only for recreational fisheries enhancement programs.

24 **NEW SECTION.** **Sec. 99.** A new section is added to chapter 75.08 RCW
25 to read as follows:

26 The department may adopt rules pertaining to harvest of fish and
27 wildlife in the federal exclusive economic zone by vessels or
28 individuals registered or licensed under the laws of this state.

29 **NEW SECTION.** **Sec. 100.** The department shall develop and present
30 to the legislature, no later than January 1, 1994, proposed legislation
31 for a recreational fishing capital facilities improvement program
32 financed through general obligation bonds.

1 NEW SECTION. **Sec. 101.** (1) As used in sections 82 through 100 of
2 this act, "department of fish and wildlife" means the department of
3 fisheries.

4 (2) This section expires June 30, 1994.

5 NEW SECTION. **Sec. 102.** Sections 1 through 6, 8 through 59, and 61
6 through 79 of this act shall take effect July 1, 1994.

7 NEW SECTION. **Sec. 103.** Sections 83 through 98 of this act shall
8 constitute a new chapter in Title 75 RCW.

9 NEW SECTION. **Sec. 104.** The sum of five hundred thousand dollars,
10 or as much thereof as may be necessary, is appropriated for the
11 biennium ending June 30, 1995, from the general fund to the
12 recreational fisheries enhancement account created in section 98 of
13 this act for the purpose of achieving early implementation of this act.
14 Funds appropriated by this section shall be repaid to the general fund
15 from the proceeds of the surcharge established in section 97 of this
16 act. Repayment shall occur before June 30, 1995.

17 NEW SECTION. **Sec. 105.** Sections 7, 60, 80, and 82 through 100 of
18 this act are necessary for the immediate preservation of the public
19 peace, health, or safety, or support of the state government and its
20 existing public institutions, and shall take effect July 1, 1993.

21 NEW SECTION. **Sec. 106.** If any provision of this act or its
22 application to any person or circumstance is held invalid, the
23 remainder of the act or the application of the provision to other
24 persons or circumstances is not affected.

 Passed the House April 29, 1993.

 Passed the Senate April 30, 1993.

 Approved by the Governor May 28, 1993, with the exception of
 certain items which were vetoed.

 Filed in Office of Secretary of State May 28, 1993.

1 Note: Governor's explanation of partial veto is as follows:

2 "I am returning herewith, without my approval as to section 96,
3 Engrossed Substitute House Bill No. 2055 entitled:

4 "AN ACT Relating to the creation of the department of fish and
5 wildlife;"

6 I congratulate the Legislature for passing Engrossed Substitute
7 House Bill No. 2055. This bill, like other agency consolidation
8 measures enacted this year, will have a major positive impact on how we

1 organize work and serve the public in our state agencies. The merger
2 of fisheries and wildlife functions will save money, result in more
3 accountable and efficient management, and eliminate overlap and
4 duplication of effort. By improving management, we will be better able
5 to focus the combined resources of the two departments on protecting
6 the valuable fish and wildlife resources and habitat of this state for
7 future generations.

8 However, a portion of section 96 would limit the ability of the new
9 agency to wisely manage the resource under the new recreational salmon
10 and marine fisheries enhancement program. The second sentence in that
11 section constrains the Department of Fisheries and the new combined
12 department from making decisions that may adversely affect a particular
13 interest group. While decisions adverse to any interest group are
14 never the preferred choice of the department, responsible stewardship
15 and wise use of the resource occasionally require difficult decisions.
16 The Governor and the department must retain the authority to make those
17 decisions.

18 In order to maintain the intent of the remainder of section 96, I
19 am directing the department to implement new recreational fishing
20 enhancement activities prescribed by this act in a manner that clearly
21 differentiates these activities from existing salmon programs of the
22 department.

23 With the exception of section 96, Engrossed Substitute House Bill
24 No. 2055 is approved."