

HOUSE BILL REPORT

EHB 2396

As Passed Legislature

Title: An act relating to wildlife violations.

Brief Description: Clarifying wildlife violations relating to game birds, game animals, and game fish.

Sponsors: Representatives Fuhrman, Basich and Mastin; by request of Department of Fish and Wildlife.

Brief History:

Committee Activity:

Natural Resources: 1/17/96, 1/30/96 [DP].

Floor Activity:

Passed House: 2/7/96, 97-0.

Senate Amended.

House Concurred.

Passed Legislature.

HOUSE COMMITTEE ON NATURAL RESOURCES

Majority Report: Do pass. Signed by 12 members: Representatives Fuhrman, Chairman; Buck, Vice Chairman; Regala, Assistant Ranking Minority Member; Beeksma; Elliot; Jacobsen; Keiser; Sheldon; Stevens; B. Thomas; L. Thomas and Thompson.

Minority Report: Without recommendation. Signed by 3 members: Representatives Pennington, Vice Chairman; Basich, Ranking Minority Member; and Hatfield.

Staff: Susan Ronn (786-7292).

Background: Under current law, it is unlawful to hunt, fish, possess, or control a species of game bird, game animal, or game fish during the closed season for that species. It is also unlawful to kill, take, catch, possess, or control a game bird, game animal, or game fish in excess of the bag limit for that species. A violation of this statutory provision, when the violation involves big game, is a gross misdemeanor. Big game is defined by statute and includes whitetail, blacktail, and mule deer. Violations involving species that are not big game (or endangered) are misdemeanors.

The Fish and Wildlife Commission establishes hunting and fishing regulations which often provide that a season is open for a game animal, game bird, or game fish with certain special restrictions or physical descriptions. An example of an open season would be an open season for antlerless deer, or for buck deer only, or for deer with a minimum number of points on the antlers. When a hunter has violated these types of restrictions, it has been the practice to charge the hunter with unlawful hunting, and, if the species is a big game animal, the penalty has been for a gross misdemeanor.

Recently, a Washington appellate court found that a hunter who violated an antler point restriction was not guilty of a gross misdemeanor. The court ruled that the statute prohibits hunting during a closed season for a *species*. In this instance, the season was open for mule deer, but was limited as to the sex and size of the animal. Only male deer with a minimum of three antler points could be hunted. The court reasoned that because an animal's sex or antler point count does not define whether it belongs to a certain *species*, the season was not closed to the *species* of mule deer and therefore the hunter was not guilty of a violation of the statute. The court found that the hunter had violated the commission's restrictions, which is a misdemeanor.

Summary of Bill: Open and closed seasons are defined to clarify the commission's authority to open or close a season to hunting, fishing, or possessing a game animal, game bird, or game fish that conforms to certain special restrictions or physical descriptions. It is unlawful to hunt, fish, or possess a game animal, game bird, or game fish during the closed season. All reference to *species* is eliminated. It is also unlawful to exceed the bag limit for game animals, game birds, or game fish. Leg length and bill length may not be considered for dusky Canada geese for the purposes of determining unlawful hunting, possessing, or bag limit.

The statute is also amended to require a catch record card to conduct certain activities. The statute previously required a punchcard. This revision brings this statute into conformity with other statutes recently amended.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: The bill properly amends the statute to restore the original legislative intent. It brings statute into conformity with department practices. It clarifies gross misdemeanor penalties for hunting violations involving big game.

Testimony Against: None.

Testified: Jim McAfee, Pierce County Sportsmen Council (pro); John Kelly, King County Outdoor Sports Council (pro); and Cyreis Schmitt, Washington Department of Fish and Wildlife (pro).