

SENATE BILL REPORT

EHB 2396

As Reported By Senate Committee On:
Natural Resources, February 22, 1996

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: 2/20/96, 2/22/96 [DPA].

SENATE COMMITTEE ON NATURAL RESOURCES

Majority Report: Do pass as amended.

Signed by Senators Drew, Chair; Spanel, Vice Chair; Hargrove, Haugen, Morton, Oke, Owen, Snyder, Strannigan and Swecker.

Staff: Erika Lim (786-7488)

Background: The Fish and Wildlife Commission has the authority to establish hunting and fishing seasons by rule. These seasons are defined by limiting the times, manners of taking, and places or waters for lawful hunting, fishing, or possession of game animals, game birds, or game fish, as well as by limiting the physical characteristics of the game animals, game birds, or game fish which may be lawfully taken at those times, in those manners, and at those places or waters.

Penalties for violations of commission rules are established by statute. Hunting, fishing, or possessing a species of game animal, game bird, or game fish under circumstances other than those established by the commission is considered taking during closed season and is illegal. Taking big game or an endangered species during closed season is a gross misdemeanor; taking other game animals, game birds, or game fish during closed season is a misdemeanor.

Historically, the department has issued citations for taking game animals, game birds, or game fish during closed season for the species if the game was taken under circumstances other than those allowed by rule or if the game did not conform to the physical characteristics allowed by rule. However, in a recent court decision, *State v. Bailey*, 77 Wn. App. 732 (1995), the court held that time, manner of taking, and places or waters are the only factors which may be used to determine whether a season is open or closed to a species. The limitations on the physical characteristics of the game--for example, antler size--do not affect its species and therefore may not be used to determine whether a season is open or closed to that species.

Summary of Amended Bill: It is unlawful to hunt, fish, or possess a species of game animal, game bird or game fish or a member of a species with a distinguishing characteristic during closed season. It is also unlawful to exceed the bag limit for game animals, game birds, game fish, or a member of a species with a distinguishing characteristic.

A catch record card is substituted for a punchcard for certain activities.

Amended Bill Compared to Original Bill: Technical changes are made to clarify the definition of the violation of taking game during closed season.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: This violation will now be defined the way the Legislature and the department intended it to be.

Testimony Against: None.

Testified: Ed Manary, Fish and Wildlife; Dana Matthews, Fish and Wildlife.