

REFERENDUM BILL 45

1 AN ACT Relating to the role of the state commission on fish and  
2 wildlife as recommended by the commission on fish and wildlife;  
3 amending RCW 77.04.040, 77.04.055, 77.04.080, 75.08.011, 75.08.025,  
4 75.08.055, 75.08.058, 75.08.070, 75.08.080, 75.08.090, 75.08.110,  
5 75.08.120, 75.08.274, 75.08.285, 75.08.295, 75.08.460, 75.40.020,  
6 75.40.040, 75.40.060, 75.08.014, 75.08.040, 75.08.045, 75.12.010,  
7 75.12.015, 75.20.110, 75.24.030, 75.24.100, 75.24.130, 75.25.095,  
8 75.30.060, 75.50.010, 75.50.020, 75.50.030, 75.50.040, 75.50.050,  
9 75.50.070, 75.50.110, 75.50.130, 75.52.050, and 77.16.135; reenacting  
10 and amending RCW 43.17.020 and 75.50.100; creating new sections;  
11 providing an effective date; and providing for submission of this act  
12 to a vote of the people.

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

14 NEW SECTION. **Sec. 1.** The legislature supports the recommendations  
15 of the state fish and wildlife commission with regard to the  
16 commission's responsibilities in the merged department of fish and  
17 wildlife. It is the intent of the legislature that, beginning July 1,  
18 1996, the commission assume regulatory authority for food fish and  
19 shellfish in addition to its existing authority for game fish and

1 wildlife. It is also the intent of the legislature to provide to the  
2 commission the authority to review and approve department agreements,  
3 to review and approve the department's budget proposals, to adopt rules  
4 for the department, and to select commission staff and the director of  
5 the department.

6 The legislature finds that all fish, shellfish, and wildlife  
7 species should be managed under a single comprehensive set of goals,  
8 policies, and objectives, and that the decision-making authority should  
9 rest with the fish and wildlife commission. The commission acts in an  
10 open and deliberative process that encourages public involvement and  
11 increases public confidence in department decision-making.

12 **Sec. 2.** RCW 43.17.020 and 1993 sp.s. c 2 s 17, 1993 c 472 s 18,  
13 and 1993 c 280 s 19 are each reenacted and amended to read as follows:

14 There shall be a chief executive officer of each department to be  
15 known as: (1) The secretary of social and health services, (2) the  
16 director of ecology, (3) the director of labor and industries, (4) the  
17 director of agriculture, (5) the director of fish and wildlife, (6) the  
18 secretary of transportation, (7) the director of licensing, (8) the  
19 director of general administration, (9) the director of community,  
20 trade, and economic development, (10) the director of veterans affairs,  
21 (11) the director of revenue, (12) the director of retirement systems,  
22 (13) the secretary of corrections, and (14) the secretary of health,  
23 and (15) the director of financial institutions.

24 Such officers, except the secretary of transportation and the  
25 director of fish and wildlife, shall be appointed by the governor, with  
26 the consent of the senate, and hold office at the pleasure of the  
27 governor. The secretary of transportation shall be appointed by the  
28 transportation commission as prescribed by RCW 47.01.041. The director  
29 of fish and wildlife shall be appointed by the fish and wildlife  
30 commission as prescribed by RCW 77.04.055.

31 **Sec. 3.** RCW 77.04.040 and 1993 sp.s. c 2 s 61 are each amended to  
32 read as follows:

33 Persons eligible for appointment as members of the commission shall  
34 have general knowledge of the habits and distribution of ((game)) fish  
35 and wildlife and shall not hold another state, county, or municipal  
36 elective or appointive office. In making these appointments, the  
37 governor shall seek to maintain a balance reflecting all aspects of

1 ~~((game))~~ fish and wildlife, including representation recommended by  
2 organized groups representing sportfishers, commercial fishers,  
3 hunters, private landowners, and environmentalists. Persons eligible  
4 for appointment as fish and wildlife commissioners shall ~~((not have a~~  
5 ~~monetary interest in any private business that is involved with~~  
6 ~~consumptive or nonconsumptive use of game fish or wildlife))~~ comply  
7 with the provisions of chapters 42.52 and 42.17 RCW.

8 **Sec. 4.** RCW 77.04.055 and 1993 sp.s. c 2 s 62 are each amended to  
9 read as follows:

10 (1) In establishing policies to preserve, protect, and perpetuate  
11 wildlife, ~~((game))~~ fish, and wildlife and ~~((game))~~ fish habitat, the  
12 commission shall meet annually with the governor to:

13 (a) Review and prescribe basic goals and objectives related to  
14 those policies; and

15 (b) Review the performance of the department in implementing  
16 ~~((game))~~ fish and wildlife policies.

17 The commission shall maximize ~~((game fish))~~ fishing, hunting, and  
18 outdoor recreational opportunities compatible with healthy and diverse  
19 fish and wildlife populations.

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

23 (3) The commission shall establish provisions regulating food fish  
24 and shellfish as provided in RCW 75.08.080.

25 (4) The commission shall have final approval authority for tribal,  
26 interstate, international, and any other department agreements relating  
27 to fish and wildlife.

28 (5) The commission shall adopt rules to implement the state's fish  
29 and wildlife laws.

30 (6) The commission shall have final approval authority for the  
31 department's budget proposals.

32 (7) The commission shall select its own staff and shall appoint the  
33 director of the department. The director and commission staff shall  
34 serve at the pleasure of the commission.

35 **Sec. 5.** RCW 77.04.080 and 1993 sp.s. c 2 s 64 are each amended to  
36 read as follows:

1 Persons eligible for appointment (~~((by the governor))~~) as director  
2 shall have practical knowledge of the habits and distribution of fish  
3 and wildlife. (~~((The governor shall seek recommendations from the  
4 commission on the qualifications, skills, and experience necessary to  
5 discharge the duties of the position. When considering and selecting  
6 the director, the governor shall consult with and be advised by the  
7 commission.))~~) The director shall receive the salary fixed by the  
8 governor under RCW 43.03.040.

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

11 The director may appoint and employ necessary departmental  
12 personnel. The director may delegate to department personnel the  
13 duties and powers necessary for efficient operation and administration  
14 of the department. (~~((The department shall provide staff for the  
15 commission.))~~)

16 **Sec. 6.** RCW 75.08.011 and 1994 c 255 s 2 are each amended to read  
17 as follows:

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

20 (1) "Commission" means the fish and wildlife commission.

21 (2) "Director" means the director of fish and wildlife.

22 ~~((+2))~~ (3) "Department" means the department of fish and wildlife.

23 ~~((+3))~~ (4) "Person" means an individual or a public or private  
24 entity or organization. The term "person" includes local, state, and  
25 federal government agencies, and all business organizations, including  
26 corporations and partnerships.

27 ~~((+4))~~ (5) "Fisheries patrol officer" means a person appointed and  
28 commissioned by the (~~((director))~~) commission, with authority to enforce  
29 this title, rules of the director, and other statutes as prescribed by  
30 the legislature. Fisheries patrol officers are peace officers.

31 ~~((+5))~~ (6) "Ex officio fisheries patrol officer" means a  
32 commissioned officer of a municipal, county, state, or federal agency  
33 having as its primary function the enforcement of criminal laws in  
34 general, while the officer is in the appropriate jurisdiction. The  
35 term "ex officio fisheries patrol officer" also includes wildlife  
36 agents, special agents of the national marine fisheries service, United  
37 States fish and wildlife special agents, state parks commissioned  
38 officers, department of natural resources enforcement officers, and

1 United States forest service officers, while the agents and officers  
2 are within their respective jurisdictions.

3 ~~((+6))~~ (7) "To fish," "to harvest," and "to take" and their  
4 derivatives mean an effort to kill, injure, harass, or catch food fish  
5 or shellfish.

6 ~~((+7))~~ (8) "State waters" means all marine waters and fresh waters  
7 within ordinary high water lines and within the territorial boundaries  
8 of the state.

9 ~~((+8))~~ (9) "Offshore waters" means marine waters of the Pacific  
10 Ocean outside the territorial boundaries of the state, including the  
11 marine waters of other states and countries.

12 ~~((+9))~~ (10) "Concurrent waters of the Columbia river" means those  
13 waters of the Columbia river that coincide with the Washington-Oregon  
14 state boundary.

15 ~~((+10))~~ (11) "Resident" means a person who has maintained a  
16 permanent place of abode within the state for at least ninety days  
17 immediately preceding an application for a license, has established by  
18 formal evidence an intent to continue residing within the state, and  
19 who is not licensed to hunt or fish as a resident in another state.

20 ~~((+11))~~ (12) "Nonresident" means a person who has not fulfilled  
21 the qualifications of a resident.

22 ~~((+12))~~ (13) "Food fish" means those species of the classes  
23 Osteichthyes, Agnatha, and Chondrichthyes that have been classified and  
24 that shall not be fished for except as authorized by rule of the  
25 ~~((director))~~ commission. The term "food fish" includes all stages of  
26 development and the bodily parts of food fish species.

27 ~~((+13))~~ (14) "Shellfish" means those species of marine and  
28 freshwater invertebrates that have been classified and that shall not  
29 be taken except as authorized by rule of the ~~((director))~~ commission.  
30 The term "shellfish" includes all stages of development and the bodily  
31 parts of shellfish species.

32 ~~((+14))~~ (15) "Salmon" means all species of the genus *Oncorhynchus*,  
33 except those classified as game fish in Title 77 RCW, and includes:

1	Scientific Name	Common Name
2	Oncorhynchus tshawytscha	Chinook salmon
3	Oncorhynchus kisutch	Coho salmon
4	Oncorhynchus keta	Chum salmon
5	Oncorhynchus gorbuscha	Pink salmon
6	Oncorhynchus nerka	Sockeye salmon

7       (~~(15)~~) (16) "Commercial" means related to or connected with  
8 buying, selling, or bartering. Fishing for food fish or shellfish with  
9 gear unlawful for fishing for personal use, or possessing food fish or  
10 shellfish in excess of the limits permitted for personal use are  
11 commercial activities.

12       (~~(16)~~) (17) "To process" and its derivatives mean preparing or  
13 preserving food fish or shellfish.

14       (~~(17)~~) (18) "Personal use" means for the private use of the  
15 individual taking the food fish or shellfish and not for sale or  
16 barter.

17       (~~(18)~~) (19) "Angling gear" means a line attached to a rod and  
18 reel capable of being held in hand while landing the fish or a hand-  
19 held line operated without rod or reel.

20       (~~(19)~~) (20) "Open season" means those times, manners of taking,  
21 and places or waters established by rule of the (~~director~~) commission  
22 for the lawful fishing, taking, or possession of food fish or  
23 shellfish. "Open season" includes the first and last days of the  
24 established time.

25       (~~(20)~~) (21) "Fishery" means the taking of one or more particular  
26 species of food fish or shellfish with particular gear in a particular  
27 geographical area.

28       (~~(21)~~) (22) "Limited-entry license" means a license subject to a  
29 license limitation program established in chapter 75.30 RCW.

30       (~~(22)~~) (23) "Seaweed" means marine aquatic plant species that are  
31 dependent upon the marine aquatic or tidal environment, and exist in  
32 either an attached or free floating form, and includes but is not  
33 limited to marine aquatic plants in the classes Chlorophyta,  
34 Phaeophyta, and Rhodophyta.

35       **Sec. 7.** RCW 75.08.025 and 1983 1st ex.s. c 46 s 8 are each amended  
36 to read as follows:

1       The ((~~director~~)) commission may negotiate agreements with the  
2 United States department of defense to coordinate fishing in state  
3 waters over which the department of defense has assumed control.

4       **Sec. 8.** RCW 75.08.055 and 1993 sp.s. c 2 s 23 are each amended to  
5 read as follows:

6       (1) The ((~~director~~)) commission may enter into agreements with and  
7 receive funds from the United States for the construction, maintenance,  
8 and operation of fish cultural stations, laboratories, and devices in  
9 the Columbia River basin for improvement of feeding and spawning  
10 conditions for fish, for the protection of migratory fish from  
11 irrigation projects and for facilitating free migration of fish over  
12 obstructions.

13       (2) The ((~~director~~)) commission and the department may acquire by  
14 gift, purchase, lease, easement, or condemnation the use of lands where  
15 the construction or improvement is to be carried on by the United  
16 States.

17       **Sec. 9.** RCW 75.08.058 and 1993 sp.s. c 2 s 99 are each amended to  
18 read as follows:

19       The ((~~department~~)) commission may adopt rules pertaining to harvest  
20 of fish and wildlife in the federal exclusive economic zone by vessels  
21 or individuals registered or licensed under the laws of this state.

22       **Sec. 10.** RCW 75.08.070 and 1989 c 130 s 1 are each amended to read  
23 as follows:

24       Consistent with federal law, the ((~~director's~~)) commission's  
25 authority extends to all areas and waters within the territorial  
26 boundaries of the state, to the offshore waters, and to the concurrent  
27 waters of the Columbia river.

28       Consistent with federal law, the ((~~director's~~)) commission's  
29 authority extends to fishing in offshore waters by residents of this  
30 state.

31       The ((~~director~~)) commission may adopt rules consistent with the  
32 regulations adopted by the United States department of commerce for the  
33 offshore waters.     The ((~~director~~)) commission may adopt rules  
34 consistent with the recommendations or regulations of the Pacific  
35 marine fisheries commission, Columbia river compact, the Pacific salmon

1 commission as provided in chapter 75.40 RCW, or the international  
2 Pacific halibut commission.

3 **Sec. 11.** RCW 75.08.080 and 1993 c 117 s 1 are each amended to read  
4 as follows:

5 (1) The (~~director~~) commission may adopt, amend, or repeal rules  
6 as follows:

7 (a) Specifying the times when the taking of food fish or shellfish  
8 is lawful or unlawful.

9 (b) Specifying the areas and waters in which the taking and  
10 possession of food fish or shellfish is lawful or unlawful.

11 (c) Specifying and defining the gear, appliances, or other  
12 equipment and methods that may be used to take food fish or shellfish,  
13 and specifying the times, places, and manner in which the equipment may  
14 be used or possessed.

15 (d) Regulating the possession, disposal, landing, and sale of food  
16 fish or shellfish within the state, whether acquired within or without  
17 the state.

18 (e) Regulating the prevention and suppression of diseases and pests  
19 affecting food fish or shellfish.

20 (f) Regulating the size, sex, species, and quantities of food fish  
21 or shellfish that may be taken, possessed, sold, or disposed of.

22 (g) Specifying the statistical and biological reports required from  
23 fishermen, dealers, boathouses, or processors of food fish or  
24 shellfish.

25 (h) Classifying species of marine and freshwater life as food fish  
26 or shellfish.

27 (i) Classifying the species of food fish and shellfish that may be  
28 used for purposes other than human consumption.

29 (j) Other rules necessary to carry out this title and the purposes  
30 and duties of the department.

31 (2) Subsections (1)(a), (b), (c), (d), and (f) of this section do  
32 not apply to private tideland owners and lessees and the immediate  
33 family members of the owners or lessees of state tidelands, when they  
34 take or possess oysters, clams, cockles, borers, or mussels, excluding  
35 razor clams, produced on their own private tidelands or their leased  
36 state tidelands for personal use.

37 "Immediate family member" for the purposes of this section means a  
38 spouse, brother, sister, grandparent, parent, child, or grandchild.



1 (3) Except for subsection (1)(g) of this section, this section does  
2 not apply to private sector cultured aquatic products as defined in RCW  
3 15.85.020. Subsection (1)(g) of this section does apply to such  
4 products.

5 **Sec. 12.** RCW 75.08.090 and 1983 1st ex.s. c 46 s 16 are each  
6 amended to read as follows:

7 (1) Rules of the ((~~director~~)) commission shall be adopted by the  
8 ((~~director~~)) commission or a designee in accordance with chapter 34.05  
9 RCW.

10 (2) Rules of the ((~~director~~)) commission shall be admitted as  
11 evidence in the courts of the state when accompanied by an affidavit  
12 from the ((~~director~~)) commission or a designee certifying that the rule  
13 has been lawfully adopted and the affidavit is prima facie evidence of  
14 the adoption of the rule.

15 (3) The ((~~director~~)) commission may designate department employees  
16 to act on the ((~~director's~~)) commission's behalf in the adoption and  
17 certification of rules.

18 **Sec. 13.** RCW 75.08.110 and 1983 1st ex.s. c 46 s 17 are each  
19 amended to read as follows:

20 Provisions of this title or rules of the ((~~director~~)) commission  
21 shall not be printed in a pamphlet unless the pamphlet is clearly  
22 marked as an unofficial version. This section does not apply to  
23 printings approved by the ((~~director~~)) commission.

24 **Sec. 14.** RCW 75.08.120 and 1983 1st ex.s. c 46 s 18 are each  
25 amended to read as follows:

26 The ((~~director~~)) commission may designate the boundaries of fishing  
27 areas by driving piling or by establishing monuments or by description  
28 of landmarks or section lines and directional headings.

29 **Sec. 15.** RCW 75.08.274 and 1983 1st ex.s. c 46 s 28 are each  
30 amended to read as follows:

31 Except by permit of the ((~~director~~)) commission, it is unlawful to  
32 take food fish or shellfish for propagation or scientific purposes  
33 within state waters.

1       **Sec. 16.** RCW 75.08.285 and 1983 1st ex.s. c 46 s 29 are each  
2 amended to read as follows:

3       The ((~~director~~)) commission may prohibit the introduction,  
4 transportation or transplanting of food fish, shellfish, organisms,  
5 material, or other equipment which in the ((~~director's~~)) commission's  
6 judgment may transmit any disease or pests affecting food fish or  
7 shellfish.

8       **Sec. 17.** RCW 75.08.295 and 1983 1st ex.s. c 46 s 30 are each  
9 amended to read as follows:

10       Except by permit of the ((~~director~~)) commission, it is unlawful to  
11 release, plant, or place food fish or shellfish in state waters.

12       **Sec. 18.** RCW 75.08.460 and 1990 c 91 s 2 are each amended to read  
13 as follows:

14       The ((~~director~~)) commission shall report to the governor and the  
15 appropriate legislative committees regarding its progress on the  
16 recreational fishery enhancement plan giving the following minimum  
17 information:

18       (1) By July 1, 1990, and by July 1st each succeeding year a report  
19 shall include:

20       (a) Progress on all programs within the plan that are referred to  
21 as already underway; and

22       (b) Specific anticipated needs for additional FTE's, additional  
23 capital funds or other needed resources, including whether or not  
24 current budgetary dollars are sufficient.

25       (2) By November 1, 1990, and by November 1st each succeeding year  
26 a report shall provide the many specificities omitted from the  
27 recreational fishery enhancement plan. They include but are not  
28 limited to the following:

29       (a) The name of the person assigned the responsibility and  
30 accountability for over-all management of the recreational fishery  
31 enhancement plan.

32       (b) The name of the person responsible and accountable for  
33 management of each regional program.

34       (c) The anticipated yearly costs related to each regional program.

35       (d) The specific dates relative to attainment of the recreational  
36 fishery enhancement plan goals, including a time-line program by  
37 region.

1 (e) Criteria used for measurement of the successful attainment of  
2 the recreational fishery enhancement plan.

3 **Sec. 19.** RCW 75.40.020 and 1983 1st ex.s. c 46 s 150 are each  
4 amended to read as follows:

5 The ((director)) commission may give to the state of Oregon such  
6 consent and approbation of the state of Washington as is necessary  
7 under the compact set out in RCW 75.40.010. For the purposes of RCW  
8 75.40.010, the states of Washington and Oregon have concurrent  
9 jurisdiction in the concurrent waters of the Columbia river as defined  
10 in RCW 75.08.011.

11 **Sec. 20.** RCW 75.40.040 and 1983 1st ex.s. c 46 s 152 are each  
12 amended to read as follows:

13 ((The director)) A member selected by or a designee of the fish and  
14 wildlife commission, ex officio, and two appointees of the governor  
15 representing the fishing industry shall act as the representatives of  
16 this state on the Pacific Marine Fisheries Commission. The appointees  
17 of the governor are subject to confirmation by the state senate.

18 **Sec. 21.** RCW 75.40.060 and 1989 c 130 s 2 are each amended to read  
19 as follows:

20 The ((director)) commission may adopt and enforce the provisions of  
21 the treaty between the government of the United States and the  
22 government of Canada concerning Pacific salmon, treaty document number  
23 99-2, entered into force March 18, 1985, at Quebec City, Canada, and  
24 the regulations of the commission adopted under authority of the  
25 treaty.

26 **Sec. 22.** RCW 75.08.014 and 1993 sp.s. c 2 s 21 are each amended to  
27 read as follows:

28 The director shall supervise the administration and operation of  
29 the department and perform the duties prescribed by law and delegated  
30 by the commission. The director may appoint and employ necessary  
31 personnel. The director may delegate, in writing, to department  
32 personnel the duties and powers necessary for efficient operation and  
33 administration of the department.

34 Only persons having general knowledge of the fisheries and wildlife  
35 resources and of the commercial and recreational fishing industry in

1 this state are eligible for appointment as director. The director  
2 shall not have a financial interest in the fishing industry or a  
3 directly related industry.

4 **Sec. 23.** RCW 75.08.040 and 1983 1st ex.s. c 46 s 9 are each  
5 amended to read as follows:

6 The ((~~director~~)) commission may acquire by gift, easement,  
7 purchase, lease, or condemnation lands, water rights, and rights of  
8 way, and construct and maintain necessary facilities for purposes  
9 consistent with this title.

10 The ((~~director~~)) commission may sell, lease, convey, or grant  
11 concessions upon real or personal property under the control of the  
12 department.

13 **Sec. 24.** RCW 75.08.045 and 1983 1st ex.s. c 46 s 11 are each  
14 amended to read as follows:

15 The ((~~director~~)) commission may accept money or real property from  
16 persons under conditions requiring the use of the property or money for  
17 the protection, rehabilitation, preservation, or conservation of the  
18 state food fish and shellfish resources, or in settlement of claims for  
19 damages to food fish and shellfish resources. The ((~~director~~))  
20 commission shall only accept real property useful for the protection,  
21 rehabilitation, preservation, or conservation of these fisheries  
22 resources.

23 **Sec. 25.** RCW 75.12.010 and 1983 1st ex.s. c 46 s 46 are each  
24 amended to read as follows:

25 (1) Except as provided in this section, it is unlawful to fish  
26 commercially for salmon within the waters described in subsection (2)  
27 of this section.

28 (2) All waters east and south of a line commencing at a concrete  
29 monument on Angeles Point in Clallam county near the mouth of the Elwha  
30 River on which is inscribed "Angeles Point Monument" (latitude 48½ 9'  
31 3"north, longitude 123½ 33' 01" west of Greenwich Meridian); thence  
32 running east on a line 81½ 30' true across the flashlight and bell buoy  
33 off Partridge Point and thence continued to longitude 122½ 40' west;  
34 thence north to the southerly shore of Sinclair Island; thence along  
35 the southerly shore of the island to the most easterly point of the  
36 island; thence 46½ true to Carter Point, the most southerly point of

1 Lummi Island; thence northwesterly along the westerly shore line of  
2 Lummi Island to where the shore line intersects line of longitude 122<sup>1</sup>  
3 40' west; thence north to the mainland, including: The southerly  
4 portion of Hale Passage, Bellingham Bay, Padilla Bay, Fidalgo Bay,  
5 Guemes Channel, Skagit Bay, Similk Bay, Saratoga Passage, Holmes  
6 Harbor, Possession Sound, Admiralty Inlet, Hood Canal, Puget Sound, and  
7 their inlets, passages, waters, waterways, and tributaries.

8 (3) The ((~~director~~)) commission may authorize commercial fishing  
9 for sockeye salmon within the waters described in subsection (2) of  
10 this section during the period June 10 to July 25 and for other salmon  
11 from the second Monday of September through November 30, except during  
12 the hours between 4:00 p.m. of Friday and 4:00 p.m. of the following  
13 Sunday.

14 (4) The ((~~director~~)) commission may authorize commercial fishing  
15 for salmon with gill net gear prior to the second Monday in September  
16 within the waters of Hale Passage, Bellingham Bay, Samish Bay, Padilla  
17 Bay, Fidalgo Bay, Guemes Channel, Skagit Bay, and Similk Bay, to wit:  
18 Those waters northerly and easterly of a line commencing at Stanwood,  
19 thence along the south shore of Skagit Bay to Rocky Point on Camano  
20 Island; thence northerly to Polnell Point on Whidbey Island.

21 (5) Whenever the ((~~director~~)) commission determines that a stock or  
22 run of salmon cannot be harvested in the usual manner, and that the  
23 stock or run of salmon may be in danger of being wasted and surplus to  
24 natural or artificial spawning requirements, the ((~~director~~))  
25 commission may authorize units of gill net and purse seine gear in any  
26 number or equivalents, by time and area, to fully utilize the  
27 harvestable portions of these salmon runs for the economic well being  
28 of the citizens of this state. Gill net and purse seine gear other  
29 than emergency and test gear authorized by the director shall not be  
30 used in Lake Washington.

31 (6) The ((~~director~~)) commission may authorize commercial fishing  
32 for pink salmon in each odd-numbered year from August 1 through  
33 September 1 in the waters lying inside of a line commencing at the most  
34 easterly point of Dungeness Spit and thence projected to Point  
35 Partridge on Whidbey Island and a line commencing at Olele Point and  
36 thence projected easterly to Bush Point on Whidbey Island.

37 **Sec. 26.** RCW 75.12.015 and 1983 1st ex.s. c 46 s 48 are each  
38 amended to read as follows:

1 Except as provided in this section, it is unlawful to fish  
2 commercially for chinook or coho salmon in the Pacific Ocean and the  
3 Straits of Juan de Fuca.

4 (1) The ((~~director~~)) commission may authorize commercial fishing  
5 for coho salmon from June 16 through October 31.

6 (2) The ((~~director~~)) commission may authorize commercial fishing  
7 for chinook salmon from March 15 through October 31.

8 **Sec. 27.** RCW 75.20.110 and 1993 sp.s. c 2 s 36 are each amended to  
9 read as follows:

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

16 (2) Within the sanctuary area:

17 (a) It is unlawful to construct a dam greater than twenty-five feet  
18 high within the migration range of anadromous fish as determined by the  
19 ((~~director~~)) commission.

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

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

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

31 **Sec. 28.** RCW 75.24.030 and 1983 1st ex.s. c 46 s 79 are each  
32 amended to read as follows:

33 Only upon recommendation of the ((~~director~~)) commission may the  
34 state oyster reserves be sold, leased, or otherwise disposed of by the  
35 department of natural resources.

1       **Sec. 29.** RCW 75.24.100 and 1993 c 340 s 51 are each amended to  
2 read as follows:

3       (1) It is unlawful to take geoduck clams for commercial purposes  
4 outside the harvest area designated in a current department of natural  
5 resources geoduck harvesting agreement issued under RCW 79.96.080. It  
6 is unlawful to commercially harvest geoduck clams from bottoms that are  
7 shallower than eighteen feet below mean lower low water (0.0. ft.), or  
8 that lie in an area bounded by the line of ordinary high tide (mean  
9 high tide) and a line two hundred yards seaward from and parallel to  
10 the line of ordinary high tide. This section does not apply to the  
11 harvest of private sector cultured aquatic products as defined in RCW  
12 15.85.020.

13       (2) Commercial geoduck harvesting shall be done with a hand-held,  
14 manually operated water jet or suction device guided and controlled  
15 from under water by a diver. Periodically, the ~~((director))~~ commission  
16 shall determine the effect of each type or unit of gear upon the  
17 geoduck population or the substrate they inhabit. The ~~((director))~~  
18 commission may require modification of the gear or stop its use if it  
19 is being operated in a wasteful or destructive manner or if its  
20 operation may cause permanent damage to the bottom or adjacent  
21 shellfish populations.

22       **Sec. 30.** RCW 75.24.130 and 1983 1st ex.s. c 46 s 89 are each  
23 amended to read as follows:

24       The ~~((director))~~ commission may examine the clam, mussel, and  
25 oyster beds located on aquatic lands belonging to the state and request  
26 the commissioner of public lands to withdraw these lands from sale and  
27 lease for the purpose of establishing reserves or public beaches. The  
28 ~~((director))~~ commission shall conserve, protect, and develop these  
29 reserves and the oyster, shrimp, clam, and mussel beds on state lands.

30       **Sec. 31.** RCW 75.25.095 and 1990 c 34 s 2 are each amended to read  
31 as follows:

32       ~~((Notwithstanding RCW 75.25.090,))~~ The ~~((director))~~ commission may  
33 adopt rules designating times and places for the purposes of family  
34 fishing days when a recreational fishing license is not required to  
35 fish for food fish or shellfish. All other applicable laws and rules  
36 shall remain in effect.

1       **Sec. 32.** RCW 75.30.060 and 1983 1st ex.s. c 46 s 139 are each  
2 amended to read as follows:

3       A person aggrieved by a decision of the department under this  
4 chapter may request administrative review under the informal procedure  
5 established by this section.

6       In an informal hearing before a review board, the rules of evidence  
7 do not apply. A record of the proceeding shall be kept as provided by  
8 chapter 34.05 RCW. After hearing the case the review board shall  
9 notify in writing the ((~~director~~)) commission and the initiating party  
10 whether the review board agrees or disagrees with the department's  
11 decision and the reasons for the board's findings. Upon receipt of the  
12 board's findings the ((~~director~~)) commission may order such relief as  
13 the ((~~director~~)) commission deems appropriate under the circumstances.

14       Nothing in this section: (1) Impairs an aggrieved person's right  
15 to proceed under chapter 34.05 RCW; or (2) imposes a liability on  
16 members of a review board for their actions under this section.

17       **Sec. 33.** RCW 75.50.010 and 1993 sp.s. c 2 s 45 are each amended to  
18 read as follows:

19       Currently, many of the salmon stocks of Washington state are  
20 critically reduced from their sustainable level. The best interests of  
21 all fishing groups and the citizens as a whole are served by a stable  
22 and productive salmon resource. Immediate action is needed to reverse  
23 the severe decline of the resource and to insure its very survival.  
24 The legislature finds a state of emergency exists and that immediate  
25 action is required to restore its fishery.

26       Disagreement and strife have dominated the salmon fisheries for  
27 many years. Conflicts among the various fishing interests have only  
28 served to erode the resource. It is time for the state of Washington  
29 to make a major commitment to increasing productivity of the resource  
30 and to move forward with an effective rehabilitation and enhancement  
31 program. The ((~~department~~)) commission is directed to dedicate its  
32 efforts and the efforts of the department to seek resolution to the  
33 many conflicts that involve the resource.

34       Success of the enhancement program can only occur if projects  
35 efficiently produce salmon or restore habitat. The expectation of the  
36 program is to optimize the efficient use of funding on projects that  
37 will increase artificially and naturally produced salmon, restore and  
38 improve habitat, or identify ways to increase the survival of salmon.



1 The full utilization of state resources and cooperative efforts with  
2 interested groups are essential to the success of the program.

3 **Sec. 34.** RCW 75.50.020 and 1985 c 458 s 2 are each amended to read  
4 as follows:

5 (1) The ((~~director~~)) commission shall develop long-term regional  
6 policy statements regarding the salmon fishery resources before  
7 December 1, 1985. The ((~~director~~)) commission shall consider the  
8 following in formulating and updating regional policy statements:

9 (a) Existing resource needs;

10 (b) Potential for creation of new resources;

11 (c) Successful existing programs, both within and outside the  
12 state;

13 (d) Balanced utilization of natural and hatchery production;

14 (e) Desires of the fishing interest;

15 (f) Need for additional data or research;

16 (g) Federal court orders; and

17 (h) Salmon advisory council recommendations.

18 (2) The ((~~director~~)) commission shall review and update each policy  
19 statement at least once each year.

20 **Sec. 35.** RCW 75.50.030 and 1985 c 458 s 3 are each amended to read  
21 as follows:

22 (1) The ((~~director~~)) commission shall develop a detailed salmon  
23 enhancement plan with proposed enhancement projects. The plan and the  
24 regional policy statements shall be submitted to the secretary of the  
25 senate and chief clerk of the house of representatives for legislative  
26 distribution by June 30, 1986. The enhancement plan and regional  
27 policy statements shall be provided by June 30, 1986, to the natural  
28 resources committees of the house of representatives and the senate.  
29 The ((~~director~~)) commission shall provide a maximum opportunity for the  
30 public to participate in the development of the salmon enhancement  
31 plan. To insure full participation by all interested parties, the  
32 ((~~director~~)) commission shall solicit and consider enhancement project  
33 proposals from Indian tribes, sports fishermen, commercial fishermen,  
34 private aquaculturists, and other interested groups or individuals for  
35 potential inclusion in the salmon enhancement plan. Joint or  
36 cooperative enhancement projects shall be considered for funding.

1 (2) The following criteria shall be used by the ((director))  
2 commission in formulating the project proposals:

3 (a) Compatibility with the long-term policy statement;

4 (b) Benefit/cost analysis;

5 (c) Needs of all fishing interests;

6 (d) Compatibility with regional plans, including harvest management  
7 plans;

8 (e) Likely increase in resource productivity;

9 (f) Direct applicability of any research;

10 (g) Salmon advisory council recommendations;

11 (h) Compatibility with federal court orders;

12 (i) Coordination with the salmon and steelhead advisory commission  
13 program;

14 (j) Economic impact to the state;

15 (k) Technical feasibility; and

16 (l) Preservation of native salmon runs.

17 (3) The ((director)) commission shall not approve projects that  
18 serve as replacement funding for projects that exist prior to May 21,  
19 1985, unless no other sources of funds are available.

20 (4) The ((director)) commission shall prioritize various projects  
21 and establish a recommended implementation time schedule.

22 **Sec. 36.** RCW 75.50.040 and 1985 c 458 s 4 are each amended to read  
23 as follows:

24 Upon approval by the legislature of funds for its implementation,  
25 the ((director)) commission shall monitor the progress of projects  
26 detailed in the salmon enhancement plan.

27 The ((director)) commission shall be responsible for establishing  
28 criteria which shall be used to measure the success of each project in  
29 the salmon enhancement plan.

30 **Sec. 37.** RCW 75.50.050 and 1987 c 505 s 72 are each amended to  
31 read as follows:

32 The ((director)) commission shall report to the legislature on or  
33 before October 30th of each year ((through 1991)) on the progress and  
34 performance of each project. The report shall contain an analysis of  
35 the successes and failures of the program to enable optimum development  
36 of the program. The report shall include estimates of funding levels  
37 necessary to operate the projects in future years.

1       The (~~director~~) commission shall submit the reports and any  
2 additional recommendations to the chairs of the committees on ways and  
3 means and the committees on natural resources of the senate and house  
4 of representatives.

5       **Sec. 38.** RCW 75.50.070 and 1993 sp.s. c 2 s 46 are each amended to  
6 read as follows:

7       The legislature finds that it is in the best interest of the salmon  
8 resource of the state to encourage the development of regional  
9 fisheries enhancement groups. The accomplishments of one existing  
10 group, the Grays Harbor fisheries enhancement task force, have been  
11 widely recognized as being exemplary. The legislature recognizes the  
12 potential benefits to the state that would occur if each region of the  
13 state had a similar group of dedicated citizens working to enhance the  
14 salmon resource.

15       The legislature authorizes the formation of regional fisheries  
16 enhancement groups. These groups shall be eligible for state financial  
17 support and shall be actively supported by the commission and the  
18 department. The regional groups shall be operated on a strictly  
19 nonprofit basis, and shall seek to maximize the efforts of volunteer  
20 and private donations to improve the salmon resource for all citizens  
21 of the state.

22       **Sec. 39.** RCW 75.50.100 and 1993 sp.s. c 17 s 11 and 1993 c 340 s  
23 53 are each reenacted and amended to read as follows:

24       The dedicated regional fisheries enhancement group account is  
25 created in the custody of the state treasurer. Only the (~~director~~)  
26 commission or the (~~director's~~) commission's designee may authorize  
27 expenditures from the account. The account is subject to allotment  
28 procedures under chapter 43.88 RCW, but no appropriation is required  
29 for expenditures.

30       A surcharge of one dollar shall be collected on each recreational  
31 personal use food fish license sold in the state. A surcharge of one  
32 hundred dollars shall be collected on each commercial salmon fishery  
33 license, each salmon delivery license, and each salmon charter license  
34 sold in the state. The department shall study methods for collecting  
35 and making available, an annual list, including names and addresses, of  
36 all persons who obtain recreational and commercial salmon fishing  
37 licenses. This list may be used to assist formation of the regional

1 fisheries enhancement groups and allow the broadest participation of  
2 license holders in enhancement efforts. The results of the study shall  
3 be reported to the house of representatives fisheries and wildlife  
4 committee and the senate environment and natural resources committee by  
5 October 1, 1990. All receipts shall be placed in the regional  
6 fisheries enhancement group account and shall be used exclusively for  
7 regional fisheries enhancement group projects for the purposes of RCW  
8 75.50.110. Funds from the regional fisheries enhancement group account  
9 shall not serve as replacement funding for department operated salmon  
10 projects that exist on January 1, 1991.

11 All revenue from the department's sale of salmon carcasses and eggs  
12 that return to group facilities shall be deposited in the regional  
13 fisheries enhancement group account for use by the regional fisheries  
14 enhancement group that produced the surplus. The ~~((director))~~  
15 commission shall adopt rules to implement this section pursuant to  
16 chapter 34.05 RCW.

17 **Sec. 40.** RCW 75.50.110 and 1990 c 58 s 4 are each amended to read  
18 as follows:

19 A regional fisheries enhancement group advisory board is  
20 established to make recommendations to the ~~((director))~~ commission.  
21 The advisory board shall make recommendations regarding regional  
22 enhancement group rearing project proposals and funding of those  
23 proposals. The members shall be appointed by the ~~((director))~~  
24 commission and consist of two commercial fishing representatives, two  
25 recreational fishing representatives, and three at-large positions.  
26 The advisory board membership shall include two members serving ex  
27 officio to be nominated, one through the Northwest Indian fisheries  
28 commission, and one through the Columbia river intertribal fish  
29 commission.

30 The department may use account funds to provide agency assistance  
31 to the groups. The level of account funds used by the department shall  
32 be determined by the ~~((director))~~ commission after review and  
33 recommendation by the regional fisheries enhancement group advisory  
34 board and shall not exceed twenty percent of annual contributions to  
35 the account.

36 **Sec. 41.** RCW 75.50.130 and 1993 sp.s. c 2 s 48 are each amended to  
37 read as follows:

1       The (~~director~~) commission shall prepare a salmon recovery plan  
2 for the Skagit river. The plan shall include strategies for employing  
3 displaced timber workers to conduct salmon restoration and other tasks  
4 identified in the plan. The plan shall incorporate the best available  
5 technology in order to achieve maximum restoration of depressed salmon  
6 stocks. The plan must encourage the restoration of natural spawning  
7 areas and natural rearing of salmon but must not preclude the  
8 development of an active hatchery program.

9       **Sec. 42.** RCW 75.52.050 and 1984 c 72 s 5 are each amended to read  
10 as follows:

11       The (~~director of each department~~) commission shall establish by  
12 rule:

13       (1) The procedure for entering a cooperative agreement and the  
14 application forms for a permit to release fish or wildlife required by  
15 RCW 75.08.295 or 77.16.150. The procedure shall indicate the  
16 information required from the volunteer group as well as the process of  
17 review by the department. The process of review shall include the  
18 means to coordinate with other agencies and Indian tribes when  
19 appropriate and to coordinate the review of any necessary hydraulic  
20 permit approval applications.

21       (2) The procedure for providing within forty-five days of receipt  
22 of a proposal a written response to the volunteer group indicating the  
23 date by which an acceptance or rejection of the proposal can be  
24 expected, the reason why the date was selected, and a written summary  
25 of the process of review. The response should also include any  
26 suggested modifications to the proposal which would increase its  
27 likelihood of approval and the date by which such modified proposal  
28 could be expected to be accepted. If the proposal is rejected, the  
29 department must provide in writing the reasons for rejection. The  
30 volunteer group may request the director or the director's designee to  
31 review information provided in the response.

32       (3) The priority of the uses to which eggs, seed, juveniles, or  
33 brood stock are put. Use by cooperative projects shall be second in  
34 priority only to the needs of programs of the department or of other  
35 public agencies within the territorial boundaries of the state. Sales  
36 of eggs, seed, juveniles, or brood stock have a lower priority than use  
37 for cooperative projects.

1 (4) The procedure for notice in writing to a volunteer group of  
2 cause to revoke the agreement for the project and the procedure for  
3 revocation. Revocation shall be documented in writing to the volunteer  
4 group. Cause for revocation may include: (a) The unavailability of  
5 adequate biological or financial resources; (b) the development of  
6 unacceptable biological or resource management conflicts; or (c) a  
7 violation of agreement provisions. Notice of cause to revoke for a  
8 violation of agreement provisions may specify a reasonable period of  
9 time within which the volunteer group must comply with any violated  
10 provisions of the agreement.

11 (5) An appropriate method of distributing among volunteer groups  
12 fish, bird, or animal food or other supplies available for the program.

13 **Sec. 43.** RCW 77.16.135 and 1993 sp.s. c 2 s 74 are each amended to  
14 read as follows:

15 (1) The (~~director~~) commission shall revoke all licenses and  
16 privileges extended under Title 77 RCW of a person convicted of assault  
17 on a state wildlife agent or other law enforcement officer provided  
18 that:

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

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

23 (2) For the purposes of this section, the definition of assault  
24 includes:

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

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

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

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

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

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

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

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

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

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

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

37 or

1 (d) The imposition of a deferred or suspended sentence by the  
2 court.

3 (4) No license described under Title 77 RCW shall be reissued to a  
4 person violating this section for a minimum of ten years, at which time  
5 a person may petition the director for a reinstatement of his or her  
6 license or licenses. The ten-year period shall be tolled during any  
7 time the convicted person is incarcerated in any state or local  
8 correctional or penal institution, in community supervision, or home  
9 detention for an offense under this section. Upon review by the  
10 director, and if all provisions of the court that imposed sentencing  
11 have been completed, the director may reinstate in whole or in part the  
12 licenses and privileges under Title 77 RCW.

13 NEW SECTION. **Sec. 44.** By July 1, 1996, the fish and wildlife  
14 commission shall submit to the committees on natural resources of the  
15 house of representatives and the senate a report identifying other  
16 statutory changes necessary for implementation of the commission's  
17 recommendations regarding its responsibilities in the department of  
18 fish and wildlife.

19 NEW SECTION. **Sec. 45.** Sections 2 through 43 of this act shall  
20 take effect July 1, 1996.

21 NEW SECTION. **Sec. 46.** This act shall be submitted to the people  
22 for their adoption and ratification, or rejection, at the next  
23 succeeding general election to be held in this state, in accordance  
24 with Article II, section 1 of the state Constitution, as amended, and  
25 the laws adopted to facilitate the operation thereof.

Passed the Senate May 17, 1995.

Passed the House May 23, 1995.

Filed in Office of Secretary of State May 24, 1995.