

FINAL BILL REPORT

ESSB 6328

PARTIAL VETO

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Synopsis as Enacted

Brief Description: Enacting the fish and wildlife code enforcement act.

Sponsors: Senate Committee on Natural Resources & Parks (originally sponsored by Senators Oke, Jacobsen and Swecker; by request of Department of Fish and Wildlife).

Senate Committee on Natural Resources & Parks

House Committee on Natural Resources

Background: The fisheries enforcement code and the wildlife enforcement code, Title 75 RCW and Title 77 RCW, respectively, have become difficult to administer and enforce subsequent to the merger of the Department of Fisheries and the Department of Wildlife. The two codes contain dissimilar levels of punishment for similar crimes, dissimilar penalties for identical levels of offense, and confusing cross references. Citizens have difficulty complying with the two codes because of this lack of continuity and coherence. Enforcement of fish and wildlife laws has become unnecessarily complicated.

Summary: New provisions define offenses, redefine existing criminal laws, and create a uniform approach to laws authorizing prosecution, sentencing, and punishment.

Punishment for crimes is standardized according to whether the crime is defined as an infraction, a misdemeanor, a gross misdemeanor, or a felony. The fisheries code definition of conviction— is retained and incorporated for resolution of issues involving wildlife restitution. Washington criminal code provisions are incorporated as the standard for classification of crimes.

Two levels of violation, first and second degree, are established for certain offenses such as game bird offenses, endangered wildlife violations, and unlawful trafficking. The release of deleterious exotic fish or wildlife and harvesting while a license is suspended are each classified as class C felony violations. Offenses involving big game, protected species, and endangered species are treated as separate violations for each animal taken or possessed. License suspension procedures are standardized. The Fish and Wildlife Commission must promulgate rules regarding the taking of unclassified species, the violation of which constitutes a crime.

The threshold for violation of unlawful hunting of game birds,— unlawful taking of endangered fish or wildlife,— unlawful taking of protected fish or wildlife,— and unlawful taking of unclassified fish or wildlife— is increased. The reckless— standard is eliminated and, instead, a person must act maliciously in order to be in violation of certain provisions of these sections.

The definition of what constitutes a loaded firearm is clarified and expanded. A firearm is not considered to be loaded if the detachable clip or magazine is not inserted or attached to the firearm.

When fish and wildlife officers inspect commercial enterprises involved with wildlife, they may search without a warrant if they meet certain requirements and conditions.

Even if fish and wildlife officers have reason to believe that a person may have pertinent evidence on his or her person, they may not search such a person without a warrant.

Clarification is made regarding the criminal wildlife penalty assessment statute and changes are made regarding the disposition of collected fines. The disposition changes from depositing moneys in the wildlife fund to depositing moneys with the clerk of the court who disperses the moneys to the general fund's public safety and education account.

The department is authorized to revoke licenses or suspend privileges. The grounds, form, and procedure for departmental revocation of licenses and suspension of privileges are provided. The commission must revoke licenses and suspend privileges of a person convicted of assault of a fish and wildlife officer. Courts may order suspension of privileges only if grounds are provided by statute.

The provision granting the department with broad powers to suspend privileges, imposing conditions on privileges, and requiring the posting a bond is eliminated. The provision mandating that the director suspend privileges of a person who has committed an act punishable by suspension when the court fails to do so is eliminated.

Civil forfeiture provisions are reconciled with current legal forfeiture standards. Language is standardized to reflect the merger of the Department of Fisheries and the Department of Wildlife. The terms wildlife agent- and fisheries patrol- are replaced by the term fish and wildlife officers.-

The commission is given authority and power to administer various provisions of the fish and wildlife enforcement code as necessitated by the merger of the Department of Fisheries and the Department of Wildlife.

Sections of the wildlife code and the fisheries code are repealed as unnecessary or redundant.

Votes on Final Passage:

Senate	49	0	
House	97	1	(House amended)
House	98	0	(House reconsidered)
Senate			(Senate refused to concur)
House			(House refused to recede)
House	94	0	(House amended)
Senate	45	0	(Senate concurred)

Effective: June 11, 1998

Partial Veto Summary: A section is vetoed to prevent a double amendment with previously signed 2SSB 6330. The veto does not result in a substantive change.