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**SENATE BILL 6328**

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**State of Washington****55th Legislature****1998 Regular Session****By** Senators Oke, Jacobsen and Swecker; by request of Department of Fish and Wildlife

Read first time 01/15/98. Referred to Committee on Natural Resources &amp; Parks.

1 AN ACT Relating to fish and wildlife code enforcement; amending RCW  
2 75.12.320, 77.16.135, 75.08.011, 75.08.160, 75.08.274, 75.08.295,  
3 75.08.300, 75.12.010, 75.12.015, 75.12.040, 75.12.132, 75.12.140,  
4 75.12.210, 75.12.230, 75.12.390, 75.12.440, 75.12.650, 75.20.040,  
5 75.20.060, 75.20.110, 75.24.080, 75.24.090, 75.24.100, 75.24.110,  
6 75.28.010, 75.28.045, 75.28.095, 75.28.113, 75.28.125, 75.28.710,  
7 75.28.740, 75.30.070, 75.30.140, 75.30.160, 75.30.210, 75.30.250,  
8 75.30.280, 75.30.290, 75.30.350, 75.30.450, 75.58.010, 77.08.010,  
9 77.12.055, 77.12.080, 77.12.090, 77.12.095, 77.12.120, 77.16.010,  
10 77.16.020, 77.16.095, 77.16.170, 77.16.220, and 77.32.350; reenacting  
11 and amending RCW 75.30.130; adding a new chapter to Title 77 RCW;  
12 creating a new section; recodifying RCW 75.10.100, 75.10.220,  
13 75.12.320, 77.12.120, 77.12.130, and 77.16.135; repealing RCW  
14 75.10.010, 75.10.020, 75.10.030, 75.10.040, 75.10.050, 75.10.060,  
15 75.10.080, 75.10.090, 75.10.110, 75.10.120, 75.10.130, 75.10.140,  
16 75.10.170, 75.10.180, 75.10.190, 75.10.200, 75.10.210, 75.12.020,  
17 75.12.031, 75.12.070, 75.12.090, 75.12.100, 75.12.115, 75.12.120,  
18 75.12.125, 75.12.127, 75.12.400, 75.12.410, 75.12.420, 75.12.430,  
19 75.24.050, 75.25.150, 77.12.060, 77.12.070, 77.16.040, 77.16.050,  
20 77.16.060, 77.16.070, 77.16.080, 77.16.090, 77.16.100, 77.16.110,  
21 77.16.120, 77.16.130, 77.16.150, 77.16.160, 77.16.180, 77.16.190,

1 77.16.250, 77.16.260, 77.16.310, 77.16.320, 77.16.330, 77.16.610,  
2 77.21.010, 77.21.040, and 77.21.060; and prescribing penalties.

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

4 NEW SECTION. **Sec. 1.** PURPOSE. The legislature finds that merger  
5 of the departments of fisheries and wildlife resulted in two criminal  
6 codes applicable to fish and wildlife, and that it has become  
7 increasingly difficult to administer and enforce the two criminal  
8 codes. Furthermore, laws defining crimes involving fish and wildlife  
9 have evolved over many years of changing uses and management objectives  
10 for fish and wildlife. The resulting two codes make it difficult for  
11 citizens to comply with the law and unnecessarily complicate  
12 enforcement of laws against violators.

13 The legislature intends by chapter . . ., Laws of 1998 (this act)  
14 to revise and recodify the criminal laws governing fish and wildlife,  
15 ensuring that all people involved with fish and wildlife are able to  
16 know and understand the requirements of the laws and the risks of  
17 violation. Additionally, the legislature intends to create a more  
18 uniform approach to criminal laws governing fish and wildlife and to  
19 the laws authorizing prosecution, sentencing, and punishments,  
20 including defining new crimes and repealing crimes that are redundant  
21 to other provisions of the criminal code.

22 Chapter . . ., Laws of 1998 (this act) is not intended to alter  
23 existing powers of the commission or the director to adopt rules or  
24 exercise powers over fish and wildlife. In some places reference is  
25 made to violation of department rules, but this is intended to conform  
26 with current powers of the commission, director, or both, to adopt  
27 rules governing fish and wildlife activities.

28 NEW SECTION. **Sec. 2.** EXEMPTION FOR DEPARTMENT ACTIONS. A person  
29 is not guilty of a crime under this chapter if the person is an  
30 officer, employee, or agent of the department lawfully acting in the  
31 course of his or her authorized duties.

32 NEW SECTION. **Sec. 3.** AUTHORITY TO DEFINE VIOLATION OF A RULE AS  
33 AN INFRACTION. If the commission or director has authority to adopt a  
34 rule that is punishable as a crime under this chapter, then the

1 commission or director may provide that violation of the rule shall be  
2 punished with notice of infraction under RCW 7.84.030.

3 NEW SECTION. **Sec. 4.** SEPARATE OFFENSES FOR EACH BIG GAME,  
4 PROTECTED, OR ENDANGERED ANIMAL. Where it is unlawful to hunt, take,  
5 kill, fish, or possess big game or protected or endangered fish or  
6 wildlife, then each individual animal killed, taken, or possessed is a  
7 separate offense.

8 NEW SECTION. **Sec. 5.** JURISDICTION. District courts have  
9 jurisdiction concurrent with superior courts for misdemeanors and gross  
10 misdemeanors committed in violation of this chapter and may impose the  
11 punishment provided for these offenses. Superior courts have  
12 jurisdiction over felonies committed in violation of this chapter.  
13 Venue for offenses occurring in off-shore waters shall be in a county  
14 bordering on the Pacific Ocean, or the county where fish or wildlife  
15 from the offense are landed.

16 NEW SECTION. **Sec. 6.** CONVICTION IN A STATE OR MUNICIPAL COURT.  
17 Unless the context clearly requires otherwise, as used in this chapter,  
18 "conviction" means a final conviction in a state or municipal court or  
19 an unvacated forfeiture of bail or collateral deposited to secure the  
20 defendant's appearance in court. A plea of guilty, or a finding of  
21 guilt for a violation of this title or rule of the commission or  
22 director constitutes a conviction regardless of whether the imposition  
23 of sentence is deferred or the penalty is suspended.

24 NEW SECTION. **Sec. 7.** REFERENCE TO CHAPTERS 7.84 AND 9A.20 RCW.  
25 Crimes defined by this chapter shall be punished as infractions,  
26 misdemeanors, gross misdemeanors, or felonies, based on the  
27 classification of crimes set out in chapters 7.84 and 9A.20 RCW.

28 NEW SECTION. **Sec. 8.** ACTING FOR COMMERCIAL PURPOSES--VALUE OF  
29 FISH OR WILDLIFE--PROOF. (1) For purposes of this chapter, it is prima  
30 facie evidence that a person was acting for commercial purposes if the  
31 person:

32 (a) Acts with intent to sell, attempted to sell, sold, bartered,  
33 attempted to purchase, or purchased fish or wildlife;

34 (b) Uses gear typical of that used in commercial fisheries;

1 (c) Exceeds the bag or possession limits for personal use by taking  
2 or possessing more than three times the amount of fish or wildlife  
3 allowed;

4 (d) Delivers or attempts to deliver fish or wildlife to a person  
5 who sells or resells fish or wildlife including any licensed or  
6 unlicensed wholesaler; or

7 (e) Takes fish using a vessel designated on a commercial fishery  
8 license and gear not authorized in a personal use fishery.

9 (2) For purposes of this chapter, the value of any fish or wildlife  
10 may be proved based on evidence of legal or illegal sales involving the  
11 person charged or any other person, of offers to sell or solicitation  
12 of offers to sell by the person charged or by any other person, or of  
13 any market price for the fish or wildlife including market price for  
14 farm-raised game animals. The value assigned to specific wildlife by  
15 RCW 77.21.070 may be presumed to be the value of such wildlife. It is  
16 not relevant to proof of value that the person charged misrepresented  
17 that the fish or wildlife was taken in compliance with law if the fish  
18 or wildlife was unlawfully taken and had no lawful market value.

19 NEW SECTION. **Sec. 9.** UNLAWFUL HUNTING OF GAME BIRDS. (1) A  
20 person is guilty of unlawful hunting of game birds in the second degree  
21 if the person:

22 (a) Hunts a game bird and the person does not have and possess all  
23 licenses, tags, stamps, and permits required under this title;

24 (b) Destroys, takes, or harms the eggs or nests of a game bird  
25 except when authorized by permit; or

26 (c) Violates any rule of the commission or director regarding  
27 seasons, bag or possession limits but less than two times the bag or  
28 possession limit, closed areas including game reserves, closed times,  
29 or other rule addressing the manner or method of hunting or possession  
30 of game birds.

31 (2) A person is guilty of unlawful hunting of game birds in the  
32 first degree if the person hunts game birds and the person takes or  
33 possesses two times or more than the possession or bag limit for such  
34 game birds allowed by rule of the commission or director.

35 (3)(a) Unlawful hunting of game birds in the second degree is a  
36 misdemeanor.

37 (b) Unlawful hunting of game birds in the first degree is a gross  
38 misdemeanor.

1        NEW SECTION.    **Sec. 10.**    UNLAWFUL HUNTING OF BIG GAME.    (1) A person  
2 is guilty of unlawful hunting of big game in the second degree if the  
3 person:

4        (a) Hunts big game and the person does not have and possess all  
5 licenses, tags, or permits required under this title; or

6        (b) Violates any rule of the commission or director regarding  
7 seasons, bag or possession limits, closed areas including game  
8 reserves, closed times, or any other rule governing the hunting,  
9 taking, or possession of big game.

10       (2) A person is guilty of unlawful hunting of big game in the first  
11 degree if the person was previously convicted of any crime under this  
12 title involving unlawful hunting, killing, possessing, or taking big  
13 game, and within five years of the date that the prior conviction was  
14 entered the person hunts for big game and:

15       (a) The person does not have and possess all licenses, tags, or  
16 permits required under this title; or

17       (b) The act was in violation of any rule of the commission or  
18 director regarding seasons, bag limits, closed areas including game  
19 reserves, or closed times.

20       (3)(a) Unlawful hunting of big game in the second degree is a gross  
21 misdemeanor.

22       (b) Unlawful hunting of big game in the first degree is a class C  
23 felony. Upon conviction, the court shall revoke all licenses or tags  
24 involved in the crime and the court shall order the person's hunting  
25 privileges suspended for two years.

26       NEW SECTION.    **Sec. 11.**    UNLAWFUL HUNTING OF GAME ANIMALS.    (1) A  
27 person is guilty of unlawful hunting of game animals in the second  
28 degree if the person:

29       (a) Hunts a game animal that is not classified as big game, and  
30 does not have and possess all licenses, tags, or permits required by  
31 this title; or

32       (b) Violates any rule of the commission or director regarding  
33 seasons, bag or possession limits but less than two times the bag or  
34 possession limit, closed areas including game reserves, closed times,  
35 or other rule addressing the manner or method of hunting or possession  
36 of game animals not classified as big game.

1 (2)(a) A person is guilty of unlawful hunting of game animals in  
2 the first degree if the person hunts a game animal that is not  
3 classified as big game; and

4 (b) The person takes or possesses two times or more than the  
5 possession or bag limit for such game animals allowed by rule of the  
6 commission or director.

7 (3)(a) Unlawful hunting of game animals in the second degree is a  
8 misdemeanor.

9 (b) Unlawful hunting of game animals in the first degree is a gross  
10 misdemeanor.

11 NEW SECTION. **Sec. 12.** WEAPONS, TRAPS, OR DOGS ON GAME RESERVES.

12 (1) A person is guilty of unlawful possession of weapons, traps, or  
13 dogs on game reserves if:

14 (a) The person possesses firearms, other hunting weapons, or traps  
15 on a game reserve; or

16 (b) The person allows a dog upon a game reserve.

17 (2) This section does not apply to persons on a public highway or  
18 if the conduct is authorized by rule of the department.

19 (3) Unlawful use of weapons, traps, or dogs on game reserves is a  
20 misdemeanor.

21 NEW SECTION. **Sec. 13.** UNLAWFUL TAKING OF ENDANGERED FISH OR

22 WILDLIFE. (1) A person is guilty of unlawful taking of endangered fish  
23 or wildlife in the second degree if the person hunts, fishes,  
24 possesses, harasses, or kills fish or wildlife or destroys the nests or  
25 eggs of fish or wildlife and the fish or wildlife is designated by the  
26 commission as endangered.

27 (2) A person is guilty of unlawful taking of endangered fish or  
28 wildlife in the first degree if the person has been:

29 (a) Convicted of violating subsection (1) of this section or  
30 convicted of any crime under this title involving the killing,  
31 possessing, harassing, or harming of endangered fish or wildlife,  
32 including but not limited to a violation of RCW 77.16.120 before the  
33 effective date of this section; and

34 (b) Within five years of the date of the prior conviction the  
35 person violates subsection (1) of this section.

36 (3)(a) Unlawful taking of endangered fish or wildlife in the second  
37 degree is a gross misdemeanor.

1 (b) Taking of endangered fish or wildlife in the first degree is a  
2 class C felony. The court shall revoke any licenses or tags used in  
3 connection with the crime and order the person's privileges to hunt,  
4 fish, trap, or obtain licenses under this title and Title 75 RCW to be  
5 suspended for two years.

6 (4) It is a defense to prosecution under this section that the  
7 person was lawfully fishing in a commercial fishery authorized by the  
8 commission and the killing or harm to the fish or wildlife was  
9 unavoidable. The burden of proving this defense by a preponderance of  
10 evidence is on the person raising this defense.

11 NEW SECTION. **Sec. 14.** UNLAWFUL TAKING OF PROTECTED FISH OR  
12 WILDLIFE. (1) A person is guilty of unlawful taking of protected fish  
13 or wildlife if:

14 (a) The person hunts, fishes, possesses, or kills protected fish or  
15 wildlife, or the person possesses or destroys the eggs or nests of  
16 protected fish or wildlife; or

17 (b) The person violates any rule of the commission regarding the  
18 taking, harming, harassment, possession, or transport of protected fish  
19 or wildlife.

20 (2) Unlawful taking of protected fish or wildlife is a misdemeanor.

21 (3) It is a defense to prosecution under this section that the  
22 person was lawfully fishing in a commercial fishery authorized by the  
23 commission and the killing or harm to the fish or wildlife was  
24 unavoidable. The burden of proving this defense by a preponderance of  
25 evidence is on the person raising this defense.

26 NEW SECTION. **Sec. 15.** UNLAWFUL TAKING OF UNCLASSIFIED FISH OR  
27 WILDLIFE. (1) A person is guilty of unlawful taking of unclassified  
28 fish or wildlife if:

29 (a) The person kills, hunts, fishes, takes, holds, possesses,  
30 transports, injures, or harms fish or wildlife that is not classified  
31 as big game, game fish, game animals, game birds, food fish, shellfish,  
32 protected wildlife, or endangered wildlife; and

33 (b) The act violates any rule of the commission or the director.

34 (2) Unlawful taking of unclassified fish or wildlife is a  
35 misdemeanor.

1        NEW SECTION.    **Sec. 16.**    UNLAWFUL USE OF POISON OR EXPLOSIVES.    (1)

2    A person is guilty of unlawful use of poison or explosives if:

3        (a) The person lays out, sets out, or uses a drug, poison, or other  
4    deleterious substance that kills, injures, harms, or endangers fish or  
5    wildlife, except if the person is using the substance in compliance  
6    with federal and state laws and label instructions; or

7        (b) The person lays out, sets out, or uses an explosive that kills,  
8    injures, harms, or endangers fish or wildlife, except if authorized by  
9    law or permit of the director.

10       (2) It is prima facie evidence of a violation of this section if a  
11    person puts a drug, poison, explosive, or other deleterious substance  
12    in a bait that is reasonably known to attract fish or wildlife and fish  
13    or wildlife has access to the bait.

14       (3) Unlawful use of poison or explosives is a gross misdemeanor.

15       NEW SECTION.    **Sec. 17.**    INFRACTION VIOLATION OF RULES GOVERNING  
16    FISH AND WILDLIFE.    A person is guilty of an infraction, which shall be  
17    cited and punished as provided under chapter 7.84 RCW, if the person:

18       (1) Fails to immediately record a catch of fish or shellfish on a  
19    catch record card required by RCW 75.25.190 or 77.32.050, or required  
20    by rule of the commission under this title or Title 75 RCW; or

21       (2) Fishes for personal use using barbed hooks in violation of any  
22    rule; or

23       (3) Violates any other rule of the commission or director that is  
24    designated by rule as an infraction.

25       NEW SECTION.    **Sec. 18.**    UNLAWFUL RECREATIONAL FISHING IN THE SECOND  
26    DEGREE.    (1) A person is guilty of unlawful recreational fishing in the  
27    second degree if the person fishes for, takes, possesses, or harvests  
28    fish or shellfish and:

29       (a) The person does not have and possess the license or the catch  
30    record card required by chapter 75.25 or 77.32 RCW for such activity;  
31    or

32       (b) The action violates any rule of the commission or the director  
33    regarding seasons, bag or possession limits but less than two times the  
34    bag or possession limit, closed areas, closed times, or any other rule  
35    addressing the manner or method of fishing or possession of fish,  
36    except for use of a net to take fish as provided for in section 51 of  
37    this act.



1 (2) Unlawful recreational fishing in the second degree is a  
2 misdemeanor.

3 NEW SECTION. **Sec. 19.** UNLAWFUL RECREATIONAL FISHING IN THE FIRST  
4 DEGREE. (1) A person is guilty of unlawful recreational fishing in the  
5 first degree if:

6 (a) The person takes, possesses, or retains two times or more than  
7 the bag limit or possession limit of fish or shellfish allowed by any  
8 rule of the director or commission setting the amount of food fish,  
9 game fish, or shellfish that can be taken, possessed, or retained for  
10 noncommercial use;

11 (b) The person fishes in a fishway; or

12 (c) The person shoots, gaffs, snags, snares, spears, dipnets, or  
13 stores fish in state waters, or possesses fish taken by such means,  
14 unless such means are authorized by express rule of the commission or  
15 director.

16 (2) Unlawful recreational fishing in the first degree is a gross  
17 misdemeanor.

18 NEW SECTION. **Sec. 20.** UNLAWFUL TAKING OF SEAWEED. (1) A person  
19 is guilty of unlawful taking of seaweed if the person takes, possesses,  
20 or harvests seaweed and:

21 (a) The person does not have and possess the license required by  
22 chapter 75.25 RCW for taking seaweed; or

23 (b) The action violates any rule of the department or the  
24 department of natural resources regarding seasons, possession limits,  
25 closed areas, closed times, or any other rule addressing the manner or  
26 method of taking, possessing, or harvesting of seaweed.

27 (2) Unlawful taking of seaweed is a misdemeanor. This does not  
28 affect rights of the state to recover civilly for trespass, conversion,  
29 or theft of state-owned valuable materials.

30 NEW SECTION. **Sec. 21.** WASTE OF FISH AND WILDLIFE. (1) A person  
31 is guilty of waste of fish and wildlife in the second degree if:

32 (a) The person kills, takes, or possesses fish or wildlife and the  
33 value of the fish or wildlife is less than two hundred fifty dollars;  
34 and

35 (b) The person recklessly allows such fish or wildlife to be  
36 wasted.

1 (2) A person is guilty of waste of fish and wildlife in the first  
2 degree if:

3 (a) The person kills, takes, or possesses food fish, shellfish,  
4 game fish, game birds, or game animals having a value of two hundred  
5 fifty dollars or more; and

6 (b) The person recklessly allows such fish or wildlife to be  
7 wasted.

8 (3)(a) Waste of fish and wildlife in the second degree is a  
9 misdemeanor.

10 (b) Waste of fish and wildlife in the first degree is a gross  
11 misdemeanor. Upon conviction, the court shall revoke any license or  
12 tag used in the crime and shall order suspension of the person's  
13 privileges to engage in the activity in which the person committed  
14 waste of fish and wildlife in the first degree for a period of one  
15 year.

16 (4) It is prima facie evidence of waste if a processor purchases or  
17 engages a quantity of food fish, shellfish, or game fish that cannot be  
18 processed within sixty hours after the food fish or shellfish are taken  
19 from the water, unless the food fish or shellfish are preserved in good  
20 marketable condition.

21 NEW SECTION. **Sec. 22.** UNLAWFUL INTERFERENCE WITH FISHING OR  
22 HUNTING GEAR. (1) A person is guilty of unlawful interference with  
23 fishing or hunting gear in the second degree if the person:

24 (a) Takes or releases a wild animal from another person's trap  
25 without permission;

26 (b) Springs, pulls up, damages, possesses, or destroys another  
27 person's trap without the owner's permission; or

28 (c) Interferes with gear used to take fish.

29 (2) Unlawful interference with fishing or hunting gear in the  
30 second degree is a misdemeanor.

31 (3) A person is guilty of unlawful interference with fishing or  
32 hunting gear in the first degree if the person:

33 (a) Takes or releases food fish or shellfish from commercial  
34 fishing gear without the owner's permission; or

35 (b) Intentionally destroys or interferes with commercial fishing  
36 gear.

37 (4) Unlawful interference with fishing or hunting gear in the first  
38 degree is a gross misdemeanor.

1 (5) A person is not in violation of unlawful interference with  
2 fishing or hunting gear if the person removes a trap placed on property  
3 owned, leased, or rented by the person.

4 NEW SECTION. **Sec. 23.** FAILING TO IDENTIFY TRAPS FOR FURBEARING  
5 ANIMALS. (1) A person is guilty of failing to identify traps for  
6 furbearing animals if the person fails to attach to the person's traps  
7 or devices a legible metal tag with either the department  
8 identification number of the trapper or the name and address of the  
9 trapper in English letters not less than one-eighth inch in height.

10 (2) Failing to identify traps for furbearing animals is a  
11 misdemeanor.

12 (3) If an individual presents a trapper identification number to  
13 the department and requests identification of the trapper, the  
14 department shall provide the individual with the name and address of  
15 the trapper. Before disclosing the trapper's name and address, the  
16 department shall obtain the name and address of the requesting  
17 individual in writing. After disclosing the trapper's name and address  
18 to the requesting individual, the requesting individual's name and  
19 address shall be disclosed in writing to the trapper whose name and  
20 address were disclosed.

21 NEW SECTION. **Sec. 24.** OBSTRUCTING THE TAKING OF FISH OR WILDLIFE.

22 (1) A person is guilty of obstructing the taking of fish or wildlife if  
23 the person:

24 (a) Harasses, drives, or disturbs fish or wildlife with the intent  
25 of disrupting lawful pursuit or taking thereof; or

26 (b) Harasses, intimidates, or interferes with an individual engaged  
27 in the lawful taking of fish or wildlife or lawful predator control  
28 with the intent of disrupting lawful pursuit or taking thereof.

29 (2) Obstructing the taking of fish or wildlife is a gross  
30 misdemeanor.

31 (3) It is an affirmative defense to a prosecution for obstructing  
32 the taking of fish or wildlife that the person charged was:

33 (a) Interfering with a person engaged in hunting outside the  
34 legally established hunting season;

35 (b) Preventing or attempting to prevent the injury or killing of a  
36 protected or endangered species as defined by this title or Title 75  
37 RCW; or

1 (c) Preventing or attempting to prevent unauthorized trespass on  
2 private property.

3 (4) The person raising a defense under subsection (3) of this  
4 section has the burden of proof by a preponderance of the evidence.

5 NEW SECTION. **Sec. 25.** UNLAWFUL POSTING. (1) A person is guilty  
6 of unlawful posting if the individual posts signs preventing hunting or  
7 fishing on any land not owned or leased by the individual, or without  
8 the permission of the person who owns, leases, or controls the land  
9 posted.

10 (2) Unlawful posting is a misdemeanor.

11 NEW SECTION. **Sec. 26.** HUNTING UNDER THE INFLUENCE. (1) A person  
12 is guilty of hunting under the influence if the person is hunting while  
13 in possession of a firearm, bow and arrow, crossbow, or other weapon  
14 and:

15 (a) Is under the influence of or affected by intoxicating liquor or  
16 controlled substance;

17 (b) Has 0.10 grams of alcohol or more per two hundred ten liters of  
18 breath; or

19 (c) Has 0.10 percent of alcohol in the blood.

20 (2) Hunting under the influence is a gross misdemeanor. Upon  
21 conviction, the court shall also sentence the person to a minimum of  
22 twenty-four consecutive hours in jail that may not be suspended or  
23 deferred, impose a minimum fine of two hundred fifty dollars, and issue  
24 an order suspending the person from exercising any hunting privileges  
25 in the state for two years. Any suspended time shall be conditioned  
26 upon alcohol treatment as described in RCW 46.61.515 and on law-abiding  
27 behavior.

28 NEW SECTION. **Sec. 27.** HUNTING UNDER THE INFLUENCE--EVIDENCE--  
29 CHEMICAL TEST. (1) Any person, whether licensed or not, who is engaged  
30 in the activity of hunting in the state, is deemed to have given his or  
31 her implied consent to give a sample of breath, blood, or other bodily  
32 substance to determine the alcohol or other controlled substance  
33 content.

34 (2) The test shall be conducted in the same manner as the breath or  
35 blood test described in RCW 46.61.506 except that if the defendant is  
36 in a hospital or other health care facility due to injuries either

1 during the hunting or sustained during the contact with law enforcement  
2 and there is no approved breath testing device available, the test  
3 shall be of blood or other bodily substance.

4 (3) A person who has been arrested for a violation of this section  
5 shall be advised that:

6 (a) He or she is under arrest for hunting while intoxicated;

7 (b) He or she is being asked to submit to a breath, blood, or other  
8 bodily substance test to determine the alcohol or other controlled  
9 substance content in his or her body;

10 (c) He or she has the right to refuse this test;

11 (d) If he or she refuses to take the test, then his or her  
12 privileges under this title to fish, hunt, trap, or take wildlife will  
13 be automatically suspended for a two-year period;

14 (e) A refusal to take the test may be admissible in any criminal  
15 trial; and

16 (f) He or she has the right to additional tests by a qualified  
17 expert of his or her choice.

18 (4) Any person who is under arrest based on probable cause for a  
19 violation of this section, who is requested to submit to a breath or  
20 blood test, who refuses to submit to the test, shall be subject to an  
21 order by the department suspending that person's hunting privileges for  
22 two years.

23 NEW SECTION. **Sec. 28.** SPOTLIGHTING BIG GAME. (1) A person is  
24 guilty of spotlighting big game in the second degree if the person  
25 hunts big game with the aid of a spotlight or other artificial light  
26 while in possession or control of a firearm, bow and arrow, or cross  
27 bow.

28 (2) A person is guilty of spotlighting big game in the first degree  
29 if:

30 (a) The person has any prior conviction for gross misdemeanor or  
31 felony for a crime under this title involving big game including but  
32 not limited to subsection (1) of this section or section 10 of this  
33 act; and

34 (b) Within ten years of the date that such prior conviction was  
35 entered the person violates subsection (1) of this section.

36 (3)(a) Spotlighting big game in the second degree is a gross  
37 misdemeanor.

1 (b) Spotlighting big game in the first degree is a class C felony.  
2 Upon conviction, the court shall order suspension of all privileges to  
3 hunt wildlife for a period of two years.

4 (4) It is prima facie evidence of a violation of this section if a  
5 person is found with a spotlight and with a firearm, bow and arrow, or  
6 crossbow after sunset, in an area where big game may reasonably be  
7 expected.

8 NEW SECTION. Sec. 29. UNLAWFUL USE OR POSSESSION OF A LOADED  
9 FIREARM. (1) A person is guilty of unlawful possession of a loaded  
10 firearm in a motor vehicle if:

11 (a) The person carries, transports, conveys, possesses, or controls  
12 a rifle or shotgun in a motor vehicle; and

13 (b) The rifle or shotgun contains shells or cartridges in the  
14 magazine or chamber, or is a muzzle-loading firearm that is loaded and  
15 capped or primed.

16 (2) A person is guilty of unlawful use of a loaded firearm if the  
17 person shoots a firearm from, across, or along the maintained portion  
18 of a public highway.

19 (3) A violation of this section is a misdemeanor.

20 (4) This section does not apply if the person:

21 (a) Is a law enforcement officer who is authorized to carry a  
22 firearm and is on duty within the officer's respective jurisdiction;

23 (b) Possesses a disabled hunter's permit as provided by RCW  
24 77.32.237 and complies with all rules of the department concerning  
25 hunting by persons with disabilities.

26 NEW SECTION. Sec. 30. UNLAWFULLY AVOIDING WILDLIFE CHECK STATIONS  
27 OR FIELD INSPECTIONS. (1) A person is guilty of unlawfully avoiding  
28 wildlife check stations or field inspections if the person fails to:

29 (a) Obey check station signs;

30 (b) Stop and report at a check station if directed to do so by a  
31 uniformed fish and wildlife officer; or

32 (c) Produce for inspection upon request by a fish and wildlife  
33 officer: (i) Hunting or fishing equipment; (ii) seaweed, fish,  
34 shellfish, or wildlife; or (iii) licenses, permits, tags, stamps, or  
35 catch record cards required by this title.

36 (2) Unlawfully avoiding wildlife check stations or field  
37 inspections is a gross misdemeanor.

1        NEW SECTION.    **Sec. 31.**    UNLAWFUL USE OF DOGS--PUBLIC NUISANCE. (1)

2    A person is guilty of unlawful use of dogs if the person:

3        (a) Fails to prevent a dog under the person's control from pursuing  
4    or injuring deer, elk, or an animal classified as endangered under this  
5    title;

6        (b) Uses the dog to hunt deer or elk; or

7        (c) During the closed season for a species of game animal or game  
8    bird, fails to prevent the dog from pursuing such animal or destroying  
9    the nest of a game bird.

10       (2) Unlawful use of dogs is a misdemeanor. A dog that is the basis  
11    for a violation of this section may be declared a public nuisance.

12       NEW SECTION.    **Sec. 32.**    UNLAWFUL RELEASE OF FISH OR WILDLIFE.

13    (1)(a) A person is guilty of unlawfully releasing, planting, or placing  
14    fish or wildlife if the person releases, plants, or places live fish or  
15    wildlife within the state, except for a release of game fish into  
16    private waters for which a game fish stocking permit has been obtained  
17    or the planting of food fish or shellfish by permit of the commission.

18       (b) A violation of this subsection is a gross misdemeanor. In  
19    addition, the court shall order the person to pay all costs the  
20    department incurred in capturing, killing, or controlling the fish or  
21    wildlife released or its progeny. This does not affect the existing  
22    authority of the department to bring a separate civil action to recover  
23    costs of capturing, killing, controlling the fish or wildlife released  
24    or their progeny, or restoration of habitat necessitated by the  
25    unlawful release.

26       (2)(a) A person is guilty of unlawful release of deleterious exotic  
27    wildlife if the person releases, plants, or places live fish or  
28    wildlife within the state and such fish or wildlife has been classified  
29    as deleterious exotic fish or wildlife by rule of the commission.

30       (b) A violation of this subsection is a class C felony. In  
31    addition, the court shall also order the person to pay all costs the  
32    department incurred in capturing, killing, or controlling the fish or  
33    wildlife released or its progeny. This does not affect the existing  
34    authority of the department to bring a separate civil action to recover  
35    costs of capturing, killing, controlling the fish or wildlife released  
36    or their progeny, or restoration of habitat necessitated by the  
37    unlawful release.

1        NEW SECTION.    **Sec. 33.**    ENGAGING IN COMMERCIAL WILDLIFE ACTIVITY  
2 WITHOUT A LICENSE.    (1) A person is guilty of engaging in commercial  
3 wildlife activity without a license if the person:

4        (a) Deals in raw furs for commercial purposes and does not hold a  
5 fur dealer license required by chapter 77.32 RCW;

6        (b) Practices taxidermy for profit and does not hold a taxidermy  
7 license required by chapter 77.32 RCW; or

8        (c) Operates a game farm without a license required by chapter  
9 77.32 RCW.

10       (2) Engaging in commercial wildlife activities without a license is  
11 a gross misdemeanor.

12       NEW SECTION.    **Sec. 34.**    UNLAWFUL USE OF A COMMERCIAL WILDLIFE  
13 LICENSE.    (1) A person who holds a fur buyer's license or taxidermy  
14 license is guilty of unlawful use of a commercial wildlife license if  
15 the person:

16       (a) Fails to have the license in possession while engaged in fur  
17 buying or practicing taxidermy for commercial purposes; or

18       (b) Violates any rule of the department regarding the use,  
19 possession, display, or presentation of the taxidermy or fur buyer's  
20 license.

21       (2) Unlawful use of a commercial wildlife license is a misdemeanor.

22       NEW SECTION.    **Sec. 35.**    UNLAWFUL TRAPPING.    (1) A person is guilty  
23 of unlawful trapping if the person:

24       (a) Sets out traps that are capable of taking wild animals, game  
25 animals, or furbearing mammals and does not possess all licenses, tags,  
26 or permits required under this title; or

27       (b) Violates any rule of the commission or director regarding  
28 seasons, bag or possession limits, closed areas including game  
29 reserves, closed times, or any other rule governing the trapping of  
30 wild animals.

31       (2) Unlawful trapping is a misdemeanor.

32       NEW SECTION.    **Sec. 36.**    COMMERCIAL FISHING WITHOUT A LICENSE.    (1)  
33 A person is guilty of commercial fishing without a license in the  
34 second degree if the person fishes for, takes, or delivers food fish,  
35 shellfish, or game fish while acting for commercial purposes and:



1 (a) The person does not hold a fishery license or delivery license  
2 under chapter 75.28 RCW for the food fish or shellfish; or

3 (b) The person is not a licensed operator designated as an  
4 alternate operator on a fishery or delivery license under chapter 75.28  
5 RCW for the food fish or shellfish.

6 (2) A person is guilty of commercial fishing without a license in  
7 the first degree if the person violates subsection (1) of this section  
8 and:

9 (a) The violation involves taking, delivery, or possession of food  
10 fish or shellfish with a value of two hundred fifty dollars or more;  
11 or

12 (b) The violation involves taking, delivery, or possession of food  
13 fish or shellfish from an area that was closed to the taking of such  
14 food fish or shellfish by any statute or rule.

15 (3)(a) Commercial fishing without a license in the second degree is  
16 a gross misdemeanor.

17 (b) Commercial fishing without a license in the first degree is a  
18 class C felony.

19 NEW SECTION. **Sec. 37.** COMMERCIAL FISH GUIDING OR CHARTERING  
20 WITHOUT A LICENSE. (1) A person is guilty of commercial fish guiding  
21 or chartering without a license if:

22 (a) The person operates a charter boat and does not hold the  
23 charter boat license required for the food fish taken;

24 (b) The person acts as a professional salmon guide and does not  
25 hold a professional salmon guide license; or

26 (c) The person acts as a game fish guide and does not hold a  
27 professional game fish guide license.

28 (2) Commercial fish guiding or chartering without a license is a  
29 gross misdemeanor.

30 NEW SECTION. **Sec. 38.** COMMERCIAL FISHING USING UNLAWFUL GEAR OR  
31 METHODS. (1) A person is guilty of commercial fishing using unlawful  
32 gear or methods if the person acts for commercial purposes and takes or  
33 fishes for any fish or shellfish using any gear or method in violation  
34 of a rule of the department specifying, regulating, or limiting the  
35 gear or method for taking, fishing, or harvesting of such fish or  
36 shellfish.

1 (2) Commercial fishing using unlawful gear or methods is a gross  
2 misdemeanor.

3 NEW SECTION. **Sec. 39.** UNLAWFUL USE OF A NONDESIGNATED VESSEL.

4 (1) A person who holds a fishery license required by chapter 75.28 RCW,  
5 or who holds an operator's license and is designated as an alternate  
6 operator on a fishery license required by chapter 75.28 RCW, is guilty  
7 of unlawful use of a nondesignated vessel if the person takes, fishes  
8 for, or delivers from that fishery using a vessel not designated on the  
9 person's license, when vessel designation is required by chapter 75.28  
10 RCW.

11 (2) Unlawful use of a nondesignated vessel is a gross misdemeanor.

12 (3) If the person violates subsection (1) of this section and the  
13 vessel designated on the person's fishery license was used by any  
14 person in the fishery on the same day, then the violation for using a  
15 nondesignated vessel is a class C felony. Upon conviction the court  
16 shall order revocation and suspension of all commercial fishing  
17 privileges under chapter 75.28 RCW for a period of one year.

18 NEW SECTION. **Sec. 40.** UNLAWFUL USE OF A COMMERCIAL FISHERY

19 LICENSE. (1) A person who holds a fishery license required by chapter  
20 75.28 RCW, or who holds an operator's license and is designated as an  
21 alternate operator on a fishery license required by chapter 75.28 RCW,  
22 is guilty of unlawful use of a commercial fishery license if the  
23 person:

24 (a) Does not have the commercial fishery license or operator's  
25 license in possession during fishing or delivery; or

26 (b) Violates any rule of the department regarding the use,  
27 possession, display, or presentation of the person's license, decals,  
28 or vessel numbers.

29 (2) Unlawful use of a commercial fishery license is a misdemeanor.

30 NEW SECTION. **Sec. 41.** VIOLATION OF COMMERCIAL FISHING AREA OR

31 TIME. (1) A person is guilty of violating commercial fishing area or  
32 time in the second degree if the person acts for commercial purposes  
33 and takes, fishes for, delivers, or receives food fish or shellfish:

34 (a) At a time not authorized by statute or rule; or

35 (b) From an area that was closed to the taking of such food fish or  
36 shellfish for commercial purposes by statute or rule.

1 (2) A person is guilty of violating commercial fishing area or time  
2 in the first degree if the person violates subsection (1) of this  
3 section and:

4 (a) The person acted with knowledge that the area or time was not  
5 open to the taking or fishing of food fish or shellfish for commercial  
6 purposes; or

7 (b) The violation involved two hundred fifty dollars or more worth  
8 of food fish or shellfish.

9 (3)(a) Violating commercial fishing area or time in the second  
10 degree is a gross misdemeanor.

11 (b) Violating commercial fishing area or time in the first degree  
12 is a class C felony.

13 NEW SECTION. **Sec. 42.** FAILURE TO REPORT COMMERCIAL FISH HARVEST  
14 OR DELIVERY. (1) Except as provided in section 46 of this act, a  
15 person is guilty of failing to report a commercial fish or shellfish  
16 harvest or delivery if the person acts for commercial purposes and  
17 takes or delivers any fish or shellfish, and the person:

18 (a) Fails to sign a fish-receiving ticket that documents the  
19 delivery of fish or shellfish or otherwise documents the taking or  
20 delivery; or

21 (b) Fails to report or document the taking, landing, or delivery as  
22 required by any rule of the department.

23 (2) Failing to report a commercial fish harvest or delivery is a  
24 gross misdemeanor.

25 (3) For purposes of this section, "delivery" of fish or shellfish  
26 occurs when there is a transfer or conveyance of title or control from  
27 the person who took, fished for, or otherwise harvested the fish or  
28 shellfish.

29 NEW SECTION. **Sec. 43.** UNLAWFUL TRAFFICKING IN FISH OR WILDLIFE.  
30 (1) A person is guilty of unlawful trafficking in fish or wildlife in  
31 the second degree if the person traffics in fish or wildlife with a  
32 wholesale value of less than two hundred fifty dollars and:

33 (a) The fish or wildlife is classified as game, food fish,  
34 shellfish, game fish, or protected wildlife and the trafficking is not  
35 authorized by statute or rule of the department; or

36 (b) The fish or wildlife is unclassified and the trafficking  
37 violates any rule of the department.

1 (2) A person is guilty of unlawful trafficking in fish or wildlife  
2 in the first degree if the person violates subsection (1) of this  
3 section and:

4 (a) The fish or wildlife has a value of two hundred fifty dollars  
5 or more; or

6 (b) The fish or wildlife is designated as endangered or deleterious  
7 exotic wildlife and such trafficking is not authorized by any statute  
8 or rule of the department.

9 (3)(a) Unlawful trafficking in fish or wildlife in the second  
10 degree is a gross misdemeanor.

11 (b) Unlawful trafficking in fish or wildlife in the first degree is  
12 a class C felony.

13 NEW SECTION. **Sec. 44.** ENGAGING IN FISH DEALING ACTIVITY WITHOUT  
14 A LICENSE. (1) A person is guilty of engaging in fish dealing activity  
15 without a license in the second degree if the person:

16 (a) Engages in the commercial processing of fish or shellfish,  
17 including custom canning or processing of personal use fish or  
18 shellfish and does not hold a wholesale dealer's license required by  
19 RCW 75.28.300(1) or 77.32.211 for anadromous game fish;

20 (b) Engages in the wholesale selling, buying, or brokering of food  
21 fish or shellfish and does not hold a wholesale dealer's or buying  
22 license required by RCW 75.28.300(2) or 77.32.211 for anadromous game  
23 fish;

24 (c) Is a fisher who lands and sells his or her catch or harvest in  
25 the state to anyone other than a licensed wholesale dealer within or  
26 outside the state and does not hold a wholesale dealer's license  
27 required by RCW 75.28.300(3) or 77.32.211 for anadromous game fish; or

28 (d) Engages in the commercial manufacture or preparation of  
29 fertilizer, oil, meal, caviar, fish bait, or other byproducts from food  
30 fish or shellfish and does not hold a wholesale dealer's license  
31 required by RCW 75.28.300(4) or 77.32.211 for anadromous game fish.

32 (2) Engaging in fish dealing activity without a license in the  
33 second degree is a gross misdemeanor.

34 (3) A person is guilty of engaging in fish dealing activity without  
35 a license in the first degree if the person violates subsection (1) of  
36 this section and the violation involves fish or shellfish worth two  
37 hundred fifty dollars or more. Engaging in fish dealing activity  
38 without a license in the first degree is a class C felony.

1        NEW SECTION.    **Sec. 45.**    UNLAWFUL USE OF FISH BUYING AND DEALING  
2 LICENSES.    (1) A person who holds a fish dealer's license required by  
3 RCW 75.28.300, an anadromous game fish buyer's license required by RCW  
4 77.32.211, or a fish buyer's license required by RCW 75.28.340 is  
5 guilty of unlawful use of fish buying and dealing licenses in the  
6 second degree if the person:

7        (a) Possesses or receives fish or shellfish for commercial purposes  
8 worth less than two hundred fifty dollars; and

9        (b) Fails to document such food fish or shellfish with a fish-  
10 receiving ticket required by statute or rule of the department.

11        (2) A person is guilty of unlawful use of fish buying and dealing  
12 licenses in the first degree if the person violates subsection (1) of  
13 this section and:

14        (a) The violation involves fish or shellfish worth two hundred  
15 fifty dollars or more;

16        (b) The person acted with knowledge that the fish or shellfish were  
17 taken from a closed area, at a closed time, or by a person not licensed  
18 to take such fish or shellfish for commercial purposes; or

19        (c) The person acted with knowledge that the fish or shellfish were  
20 taken in violation of any tribal law.

21        (3)(a) Unlawful use of fish buying and dealing licenses in the  
22 second degree is a gross misdemeanor.

23        (b) Unlawful use of fish buying and dealing licenses in the first  
24 degree is a class C felony. Upon conviction, the court shall suspend  
25 all privileges to engage in fish buying or dealing for two years.

26        NEW SECTION.    **Sec. 46.**    VIOLATING RULES GOVERNING WHOLESALE FISH  
27 BUYING AND DEALING.    (1) A person who holds a wholesale fish dealer's  
28 license required by RCW 75.28.300, an anadromous game fish buyer's  
29 license required by RCW 77.32.211, or a fish buyer's license required  
30 by RCW 75.28.340 is guilty of violating rules governing wholesale fish  
31 buying and dealing if the person:

32        (a) Fails to possess or display his or her license when engaged in  
33 any act requiring the license;

34        (b) Fails to display or uses the license in violation of any rule  
35 of the department;

36        (c) Files a signed fish-receiving ticket but fails to provide all  
37 information required by rule of the department; or

1 (d) Violates any other rule of the department regarding wholesale  
2 fish buying and dealing.

3 (2) Violating rules governing wholesale fish buying and dealing is  
4 a gross misdemeanor.

5 NEW SECTION. **Sec. 47.** PROVIDING FALSE INFORMATION REGARDING FISH  
6 OR WILDLIFE. (1) A person is guilty of providing false information  
7 regarding fish or wildlife if the person knowingly provides false or  
8 misleading information required by any statute or rule to be provided  
9 to the department regarding the taking, delivery, possession,  
10 transportation, sale, transfer, or any other use of fish or wildlife.

11 (2) Providing false information regarding fish or wildlife is a  
12 gross misdemeanor.

13 NEW SECTION. **Sec. 48.** VIOLATING RULES REQUIRING REPORTING OF FISH  
14 OR WILDLIFE HARVEST. (1) A person is guilty of violating rules  
15 requiring reporting of fish or wildlife harvest if the person:

16 (a) Fails to make a harvest log report of a commercial fish or  
17 shellfish catch in violation of any rule of the commission or the  
18 director;

19 (b) Fails to maintain a trapper's report or taxidermist ledger in  
20 violation of any rule of the commission or the director;

21 (c) Fails to submit any portion of a big game animal for a required  
22 inspection required by rule of the commission or the director; or

23 (d) Fails to return a catch record card or wildlife harvest report  
24 to the department as required by rule of the commission or director.

25 (2) Violating rules requiring reporting of fish or wildlife harvest  
26 is a misdemeanor.

27 NEW SECTION. **Sec. 49.** UNLAWFUL TRANSPORTATION OF FISH OR  
28 WILDLIFE. (1) A person unlawfully transports fish or wildlife in the  
29 second degree if the person:

30 (a) Imports, moves within the state, or exports fish or wildlife in  
31 violation of any rule of the commission or the director governing the  
32 transportation or movement of fish or wildlife and the transportation  
33 does not involve big game, endangered fish or wildlife, deleterious  
34 exotic wildlife, or fish or wildlife having a value greater than two  
35 hundred fifty dollars; or

1 (b) Possesses but fails to affix or notch a big game transport tag  
2 as required by rule of the commission or director.

3 (2) A person unlawfully transports fish or wildlife in the first  
4 degree if the person:

5 (a) Imports, moves within the state, or exports fish or wildlife in  
6 violation of any rule of the commission or the director governing the  
7 transportation or movement of fish or wildlife and the transportation  
8 involves big game, endangered fish or wildlife, deleterious exotic  
9 wildlife, or fish or wildlife with a value of two hundred fifty dollars  
10 or more; or

11 (b) Transports equipment used in commercial culturing, taking,  
12 handling, or processing shellfish without a permit required by  
13 authority of this title.

14 (3)(a) Unlawful transportation of fish or wildlife in the second  
15 degree is a misdemeanor.

16 (b) Unlawful transportation of fish or wildlife in the first degree  
17 is a gross misdemeanor.

18 **Sec. 50.** RCW 75.12.320 and 1983 1st ex.s. c 46 s 63 are each  
19 amended to read as follows:

20 (1) Except as provided in subsection (~~(2)~~) (3) of this section,  
21 it is unlawful for a person who is not a treaty Indian fisherman to  
22 participate in the taking of (~~food~~) fish (~~or shellfish~~) in a treaty  
23 Indian fishery, or to be on board a vessel, or associated equipment,  
24 operating in a treaty Indian fishery. A violation of this subsection  
25 is a gross misdemeanor.

26 (2) A person who violates subsection (1) of this section with the  
27 intent of acting for commercial purposes, including any sale of catch,  
28 control of catch, profit from catch, or payment for fishing assistance,  
29 is guilty of a class C felony. Upon conviction, the court shall order  
30 revocation of any license and a one-year suspension of all commercial  
31 fishing privileges requiring a license under chapter 75.28 or 75.30  
32 RCW.

33 (3)(a) The spouse, forebears, siblings, children, and grandchildren  
34 of a treaty Indian fisherman may assist the fisherman in exercising  
35 treaty Indian fishing rights when the treaty Indian fisherman is  
36 present at the fishing site.

37 (b) Other treaty Indian fishermen with off-reservation treaty  
38 fishing rights in the same usual and accustomed places, whether or not

1 the fishermen are members of the same tribe or another treaty tribe,  
2 may assist a treaty Indian fisherman in exercising treaty Indian  
3 fishing rights when the treaty Indian fisherman is present at the  
4 fishing site.

5 (c) Biologists approved by the department may be on board a vessel  
6 operating in a treaty Indian fishery.

7 ~~((+3))~~ (4) For the purposes of this section:

8 (a) "Treaty Indian fisherman" means a person who may exercise  
9 treaty Indian fishing rights as determined under United States v.  
10 Washington, 384 F. Supp. 312 (W.D. Wash. 1974), or Sohappay v. Smith,  
11 302 F. Supp. 899 (D. Oregon 1969), and post-trial orders of those  
12 courts;

13 (b) "Treaty Indian fishery" means a fishery open to only treaty  
14 Indian fishermen by tribal or federal regulation;

15 (c) "To participate" and its derivatives mean an effort to operate  
16 a vessel or fishing equipment, provide immediate supervision in the  
17 operation of a vessel or fishing equipment, or otherwise assist in the  
18 fishing operation, ~~((or))~~ to claim possession of a share of the catch,  
19 or to represent that the catch was lawfully taken in an Indian fishery.

20 ~~((+4))~~ (5) A violation of this section involving salmon  
21 constitutes illegal fishing and is subject to the ~~((sanctions provided  
22 under RCW 75.10.130))~~ suspensions provided for commercial fishing  
23 violations.

24 NEW SECTION. Sec. 51. UNLAWFUL USE OF NETS TO TAKE FISH. (1) A  
25 person is guilty of unlawful use of a net to take fish in the second  
26 degree if the person:

27 (a) Lays, sets, uses, or controls a net, set line, or other device  
28 or equipment capable of taking fish from the waters of this state,  
29 except if the person shows that he or she has a valid license for such  
30 fishing gear from the director under this title and is acting in  
31 accordance with all rules of the commission and director; or

32 (b) Fails to return unauthorized fish to the water immediately  
33 while otherwise lawfully operating a net under a valid license.

34 (2) A person is guilty of unlawful use of a net to take fish in the  
35 first degree if the person:

36 (a) Violates subsection (1) of this section; and

37 (b) The violation occurs within five years of entry of a prior  
38 conviction for a gross misdemeanor under this title or Title 75 RCW



1 involving fish, other than a recreational fishing violation, or  
2 involving unlawful use of nets.

3 (3)(a) Unlawful use of a net to take fish in the second degree is  
4 a gross misdemeanor. Upon conviction, the court shall revoke any  
5 license held under this title allowing commercial net fishing used in  
6 connection with the crime.

7 (b) Unlawful use of a net to take fish in the first degree is a  
8 class C felony. Upon conviction, the court shall order a one-year  
9 suspension of all commercial fishing privileges requiring a license  
10 under this title.

11 (4) Notwithstanding subsections (1) and (2) of this section, it is  
12 lawful to use a landing net to land fish otherwise legally hooked.

13 NEW SECTION. **Sec. 52.** UNLAWFUL USE OF COMMERCIAL FISHING VESSEL  
14 FOR RECREATIONAL OR CHARTER FISHING. (1) A person is guilty of  
15 unlawful use of a commercial fishing vessel for recreational or charter  
16 fishing if the person uses, operates, or controls a vessel on the same  
17 day for both:

18 (a) Charter or recreational fishing; and

19 (b) Commercial fishing or shellfish harvesting.

20 (2) Unlawful use of a commercial fishing vessel for recreational or  
21 charter fishing is a gross misdemeanor.

22 NEW SECTION. **Sec. 53.** UNLAWFUL HYDRAULIC PROJECT ACTIVITIES. (1)  
23 A person is guilty of unlawfully undertaking hydraulic project  
24 activities if the person constructs any form of hydraulic project or  
25 performs other work on a hydraulic project and:

26 (a) Fails to have a hydraulic project approval required under  
27 chapter 75.20 RCW for such construction or work; or

28 (b) Violates any requirements or conditions of the hydraulic  
29 project approval for such construction or work.

30 (2) Unlawfully undertaking hydraulic project activities is a gross  
31 misdemeanor.

32 NEW SECTION. **Sec. 54.** UNLAWFUL FAILURE TO USE OR MAINTAIN  
33 APPROVED FISH GUARD ON WATER DIVERSION DEVICE. (1) A person is guilty  
34 of unlawful failure to use or maintain an approved fish guard on a  
35 diversion device if the person owns, controls, or operates a device

1 used for diverting or conducting water from a lake, river, or stream  
2 and:

3 (a) The device is not equipped with a fish guard, screen, or bypass  
4 approved by the director as required by RCW 75.20.040 or 77.16.220; or

5 (b) The person knowingly fails to maintain or operate an approved  
6 fish guard, screen, or bypass so as to effectively screen or prevent  
7 fish from entering the intake.

8 (2) Unlawful failure to use or maintain an approved fish guard,  
9 screen, or bypass on a diversion device is a misdemeanor. Each day  
10 that a diversion device is operated without an approved or maintained  
11 fish guard, screen, or bypass is a separate offense.

12 NEW SECTION. **Sec. 55.** UNLAWFUL FAILURE TO PROVIDE, MAINTAIN, OR  
13 OPERATE FISHWAY FOR DAM OR OTHER OBSTRUCTION. (1) A person is guilty  
14 of unlawful failure to provide, maintain, or operate a fishway for dam  
15 or other obstruction if the person owns, operates, or controls a dam or  
16 other obstruction to fish passage on a river or stream and:

17 (a) The dam or obstruction is not provided with a durable and  
18 efficient fishway approved by the director as required by RCW  
19 75.20.060;

20 (b) Fails to maintain a fishway in efficient operating condition;  
21 or

22 (c) Fails to continuously supply a fishway with a sufficient supply  
23 of water to allow the free passage of fish.

24 (2) Unlawful failure to provide, maintain, or operate a fishway for  
25 dam or other obstruction is a misdemeanor. Each day of unlawful  
26 failure to provide, maintain, or operate a fishway is a separate  
27 offense.

28 NEW SECTION. **Sec. 56.** UNLAWFUL USE OF SCIENTIFIC PERMIT. (1) A  
29 person is guilty of unlawful use of a scientific permit if the person:

30 (a) Violates any terms or conditions of a scientific permit issued  
31 by the director;

32 (b) Buys or sells fish or wildlife taken with a scientific permit;  
33 or

34 (c) Violates any rule of the commission or the director applicable  
35 to the issuance or use of scientific permits.

36 (2) Unlawful use of a scientific permit is a gross misdemeanor.

1        NEW SECTION.    **Sec. 57.**    UNLAWFUL HUNTING OR FISHING CONTESTS.    (1)

2    A person is guilty of unlawfully holding a hunting or fishing contest  
3    if the person:

4        (a) Conducts, holds, or sponsors a hunting contest, a fishing  
5    contest involving game fish, or a competitive field trial using live  
6    wildlife without the permit required by chapter 77.32 RCW; or

7        (b) Violates any rule of the commission or the director applicable  
8    to a hunting contest, fishing contest involving game fish, or a  
9    competitive field trial using live wildlife.

10       (2) Unlawfully holding a hunting or fishing contest is a  
11    misdemeanor.

12       NEW SECTION.    **Sec. 58.**    UNLAWFUL OPERATION OF A GAME FARM.    (1) A  
13    person is guilty of unlawful operation of a game farm if the person  
14    violates any rule of the commission or the director applicable to game  
15    farms under RCW 77.12.570, 77.12.580, and 77.12.590.

16       (2) Unlawful operation of a game farm is a gross misdemeanor.

17       NEW SECTION.    **Sec. 59.**    VIOLATION OF A RULE REGARDING INSPECTION  
18    AND CONTROL OF AQUATIC FARMS.    (1) A person is guilty of violating a  
19    rule regarding inspection and control of aquatic farms if the person:

20       (a) Violates any rule adopted under chapter 75.58 RCW regarding the  
21    disease inspection and control program for an aquatic farm; or

22       (b) Fails to register or report production from an aquatic farm as  
23    required by chapter 75.58 RCW.

24       (2) A violation of a rule regarding inspection and control of  
25    aquatic farms is a gross misdemeanor.

26       NEW SECTION.    **Sec. 60.**    UNLAWFUL PURCHASE OR USE OF A LICENSE.    (1)  
27    A person is guilty of unlawful purchase or use of a license in the  
28    second degree if the person buys, holds, uses, displays, transfers, or  
29    obtains any license, tag, permit, or approval required by this title  
30    and the person:

31       (a) Uses false information to buy, hold, use, display, or obtain a  
32    license, permit, tag, or approval;

33       (b) Acquires, holds, or buys in excess of one license, permit, or  
34    tag for a license year if only one license, permit, or tag is allowed  
35    per license year;

1 (c) Uses or displays a license, permit, tag, or approval that was  
2 issued to another person;

3 (d) Permits or allows a license, permit, tag, or approval to be  
4 used or displayed by another person not named on the license, permit,  
5 tag, or approval;

6 (e) Acquires or holds a license while privileges for the license  
7 are revoked or suspended.

8 (2) A person is guilty of unlawful purchase or use of a license in  
9 the first degree if the person violates subsection (1) of this section  
10 and the person was acting with intent that the license, permit, tag, or  
11 approval be used for any commercial purpose. A person is presumed to  
12 be acting with such intent if the violation involved obtaining,  
13 holding, displaying, or using a license or permit for participation in  
14 any commercial fishery issued under this title or a license authorizing  
15 fish or wildlife buying, trafficking, or wholesaling.

16 (3)(a) Unlawful purchase or use of a license in the second degree  
17 is a gross misdemeanor. Upon conviction, the court shall revoke any  
18 unlawfully used or held licenses and order a two-year suspension of  
19 participation in the activities for which the person unlawfully  
20 obtained, held, or used a license.

21 (b) Unlawful purchase or use of a license in the first degree is a  
22 class C felony. Upon conviction, the court shall revoke any unlawfully  
23 used or held licenses and order a five-year suspension of participation  
24 in any activities for which the person unlawfully obtained, held, or  
25 used a license.

26 (4) For purposes of this section, a person "uses" a license,  
27 permit, tag, or approval if the person engages in any activity  
28 authorized by the license, permit, tag, or approval held or possessed  
29 by the person. Such uses include but are not limited to fishing,  
30 hunting, taking, trapping, delivery or landing fish or wildlife, and  
31 selling, buying, or wholesaling of fish or wildlife.

32 (5) Any license obtained in violation of this section is void upon  
33 issuance and is of no legal effect.

34 NEW SECTION. **Sec. 61.** UNLAWFUL HUNTING OR FISHING WHEN PRIVILEGES  
35 ARE REVOKED OR SUSPENDED. (1) A person is guilty of unlawful hunting  
36 or fishing when privileges are revoked or suspended in the second  
37 degree if the person hunts or fishes and the person's privilege to

1 engage in such hunting or fishing were revoked or suspended by any  
2 court or the department.

3 (2) A person is guilty of unlawful hunting or fishing when  
4 privileges are revoked or suspended in the first degree if the person  
5 violates subsection (1) of this section and:

6 (a) The suspension of privileges that was violated was a permanent  
7 suspension;

8 (b) The person takes or possesses more than two hundred fifty  
9 dollars' worth of unlawfully taken food fish, wildlife, game fish,  
10 seaweed, or shellfish; or

11 (c) The violation involves the hunting, taking, or possession of  
12 fish or wildlife classified as endangered or threatened or big game.

13 (3)(a) Unlawful hunting or fishing when privileges are revoked or  
14 suspended in the second degree is a gross misdemeanor. Upon  
15 conviction, the court shall order permanent suspension of the person's  
16 privileges to engage in such hunting or fishing activities.

17 (b) Unlawful hunting or fishing when privileges are revoked or  
18 suspended in the first degree is a class C felony. Upon conviction,  
19 the court shall order permanent suspension of all privileges to hunt,  
20 fish, trap, or take wildlife, food fish, or shellfish.

21 (4) As used in this section, hunting includes trapping with a  
22 trapping license.

23 NEW SECTION. **Sec. 62.** UNLAWFUL INTERFERING IN DEPARTMENT  
24 OPERATIONS. (1) A person is guilty of unlawful interfering in  
25 department operations if the person prevents department employees from  
26 carrying out duties authorized by this title or Title 75 RCW, including  
27 but not limited to interfering in the operation of department vehicles,  
28 vessels, or aircraft.

29 (2) Unlawful interfering in department operations is a gross  
30 misdemeanor.

31 NEW SECTION. **Sec. 63.** CRIMINAL WILDLIFE PENALTY ASSESSMENT FOR  
32 ILLEGALLY TAKEN OR POSSESSED WILDLIFE. (1) If a person is convicted of  
33 violating section 7 of this act and that violation results in the death  
34 of wildlife listed in this section, the court shall require payment of  
35 the following amounts for each animal killed or possessed. This shall  
36 be a criminal wildlife penalty assessment that shall be paid to the  
37 department and deposited in the wildlife fund.

- 1 (a) Moose, mountain sheep, mountain goat, and all wildlife
- 2 species classified as endangered by rule of the commission,
- 3 except for mountain caribou and grizzly bear as listed under
- 4 (d) of this subsection . . . . . \$ 4,000
- 5 (b) Elk, deer, black bear, and cougar . . . . . \$ 2,000
- 6 (c) Trophy animal elk and deer . . . . . \$ 6,000
- 7 (d) Mountain caribou, grizzly bear, and trophy animal mountain
- 8 sheep . . . . . \$12,000

9 (2) No court may establish bail for a crime involving killing,  
10 taking, or possessing the wildlife listed in subsection (1) of this  
11 section in an amount less than the bail established for hunting during  
12 the closed season plus the criminal wildlife penalty assessment set  
13 forth in subsection (1) of this section. No forfeiture of bail may be  
14 less than the amount set in this subsection plus payment of the  
15 criminal wildlife penalty assessment.

16 (3) For the purpose of this section a "trophy animal" is:

- 17 (a) A buck deer with four or more antler points on either side;
- 18 (b) A bull elk with five or more antler points on either side; or
- 19 (c) A mountain sheep with a horn curl of three-quarter curl or
- 20 greater.

21 (4) If two or more persons are convicted of illegally possessing  
22 wildlife in subsection (1) of this section, the criminal wildlife  
23 penalty assessment shall be imposed on them jointly and separately.

24 (5) The criminal wildlife penalty assessment shall be imposed  
25 regardless of and in addition to any sentence, fines, or costs  
26 otherwise provided for violating any provision of this title. The  
27 criminal wildlife penalty assessment shall be included by the court in  
28 any pronouncement of sentence and may not be suspended, waived,  
29 modified, or deferred in any respect. This section may not be  
30 construed to abridge or alter alternative rights of action or remedies  
31 in equity or under common law or statutory law, criminal or civil.

32 (6) A defaulted criminal wildlife penalty assessment may be  
33 collected by any means authorized by law for the enforcement of orders  
34 of the court or collection of a fine or costs, including but not  
35 limited to vacation of a deferral of sentencing or vacation of a  
36 suspension of sentence.

37 (7) A person assessed a restitution under this section shall have  
38 his or her hunting license revoked and all hunting privileges suspended

1 until the restitution is paid through the registry of the court in  
2 which the restitution was assessed.

3 NEW SECTION. **Sec. 64.** DISPOSITION OF FORFEITED WILDLIFE AND  
4 ARTICLES. (1) Unless otherwise provided in this title or Title 75 RCW,  
5 fish, shellfish, or wildlife unlawfully taken or possessed, or involved  
6 in a violation shall be forfeited to the state upon conviction. Unless  
7 already held by, sold, destroyed, or disposed of by the department, the  
8 court shall order such fish or wildlife to be delivered to the  
9 department.

10 (2) The department may use, sell, or destroy any other property  
11 forfeited by the court or the department. Any sale of other property  
12 shall be at public auction or after public advertisement reasonably  
13 designed to obtain the highest price. The time, place, and manner of  
14 holding the sale shall be determined by the director. The director may  
15 contract for the sale to be through the department of general  
16 administration as state surplus property, or, except where not  
17 justifiable by the value of the property, the director shall publish  
18 notice of the sale once a week for at least two consecutive weeks  
19 before the sale in at least one newspaper of general circulation in the  
20 county in which the sale is to be held. Proceeds of the sale shall be  
21 deposited in the state treasury to be credited to the state wildlife  
22 fund.

23 NEW SECTION. **Sec. 65.** COURT AUTHORITY TO REVOKE LICENSES. (1)  
24 Upon any conviction of any violation of this chapter, the court may  
25 revoke any license, tag, or stamp, or other permit involved in the  
26 violation or held by the person convicted, in addition to other  
27 penalties provided by law.

28 (2) If a court orders that a license, tag, stamp, or other permit  
29 be revoked, that order is effective upon entry of the court order and  
30 any such revoked license, tag, stamp, or other permit is void as a  
31 result of such order of revocation. The court shall order such  
32 license, tag, stamp, or other permit turned over to the department, and  
33 shall order the person not to acquire a replacement or duplicate for  
34 the remainder of the period for which the revoked license, tag, stamp,  
35 or other permit would have been valid. During this period when a  
36 license is revoked, the person is subject to punishment under this

1 chapter. If the person appeals the sentence by the court, the  
2 revocation shall be effective during the appeal.

3 (3) If an existing license, tag, stamp, or other permit is voided  
4 and revoked under this chapter, the department and its agents shall not  
5 be required to refund or restore any fees, costs, or money paid for the  
6 license, nor shall any person have any right to bring a collateral  
7 appeal under chapter 34.05 RCW to attack the court order.

8 NEW SECTION. Sec. 66. COURT AUTHORITY TO SUSPEND PRIVILEGES--FORM  
9 AND PROCEDURE. (1) If any crime in this chapter is punishable by a  
10 suspension of privileges under this title, then the court shall issue  
11 an order that specifies the privileges suspended and period when such  
12 suspension shall begin and end and concurrently inform the department  
13 of the suspension by providing a copy of the order. The department has  
14 no authority to issue licenses, permits, tags, or stamps for the  
15 suspended activity until the suspension ends and any license, tag,  
16 stamp, or other permission obtained in violation of an order of  
17 suspension is void and ineffective. Chapter 34.05 RCW does not apply  
18 to court-ordered suspension of privileges under this chapter.

19 (2) A court sentence may include a suspension of privileges only if  
20 grounds are provided by statute. There is no right to seek  
21 reinstatement of privileges from the department during a period of  
22 court-ordered suspension.

23 (3) If this chapter makes revocation or suspension of privileges  
24 mandatory, then the court shall impose the punishment in addition to  
25 any other punishments authorized by law.

26 NEW SECTION. Sec. 67. GROUNDS FOR COURT REVOCATION AND SUSPENSION  
27 OF PRIVILEGES. The court shall impose revocation and suspension of  
28 privileges upon conviction in the following circumstances:

29 (1) If directed by statute for an offense;

30 (2) If the court finds that actions of the defendant demonstrated  
31 a willful or wanton disregard for conservation of fish, wildlife, or  
32 the environment, or willful or wanton disregard for public safety.  
33 Such suspension of privileges may be permanent;

34 (3) If a person is convicted twice within ten years for a violation  
35 involving unlawful hunting, killing, or possessing big game, the court  
36 shall order revocation and suspension of all hunting privileges for two  
37 years. RCW 77.16.020 or 77.16.050 as it existed before the effective



1 date of this section may comprise one of the convictions constituting  
2 the basis for revocation and suspension under this subsection;

3 (4) If a person is convicted three times in ten years of any  
4 violation of recreational hunting or fishing laws or rules, the court  
5 shall order a revocation and suspension of all recreational hunting and  
6 fishing privileges for two years;

7 (5) If a person is convicted twice within five years of a gross  
8 misdemeanor or felony involving unlawful commercial fish or shellfish  
9 harvesting, buying, or selling, the court shall impose a revocation and  
10 suspension of the person's commercial fishing privileges. A commercial  
11 fishery license suspended under this subsection may not be used by an  
12 alternate operator or transferred during the period of suspension.

13 **Sec. 68.** RCW 77.16.135 and 1995 1st sp.s. c 2 s 43 are each  
14 amended to read as follows:

15 (1) The ~~((commission))~~ court shall revoke all licenses and order a  
16 ten-year suspension of all privileges extended under this title ~~((77~~  
17 ~~RCW))~~ of a person convicted of assault on a ~~((state wildlife agent))~~  
18 fish and wildlife officer or other law enforcement officer provided  
19 that:

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

22 (b) The ~~((wildlife agent))~~ fish and wildlife officer or other law  
23 enforcement officer was enforcing the provisions of this title ~~((77~~  
24 ~~RCW))~~ or other laws of the state.

25 (2) For the purposes of this section, the definition of assault  
26 includes:

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

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

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

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

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

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

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

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

35 ~~(a) A determination of guilt by the court;~~

36 ~~(b) The entering of a guilty plea to the charge or charges by the~~  
37 ~~accused;~~

1       ~~(c) A forfeiture of bail or a vacation of bail posted to the court;~~  
2 or

3       ~~(d) The imposition of a deferred or suspended sentence by the~~  
4 court.

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

15       NEW SECTION.   **Sec. 69.** DIRECTOR'S AUTHORITY TO SUSPEND PRIVILEGES.

16 (1) The director may order suspension of privileges licensed or  
17 permitted by the department or impose conditions on the exercise of  
18 privileges including reporting or monitoring requirements and payment  
19 of the department's costs of supervision, monitoring, or reporting.  
20 The director may also require the posting of a bond or other monetary  
21 security that may be used to satisfy any administrative or criminal  
22 penalty against the person or to satisfy the department's costs. An  
23 order suspending privileges under this section shall specify the  
24 privileges suspended or conditioned and the period when the suspension  
25 or condition begins and ends.

26 (2) If a person shoots another person or domestic livestock while  
27 hunting, the director shall suspend all hunting privileges for three  
28 years. If the shooting of another person or livestock is the result of  
29 criminal negligence or reckless or intentional conduct, then the  
30 person's privileges shall be suspended for ten years. The suspension  
31 may be continued beyond these periods if damages owed to the victim or  
32 livestock owner have not been paid by the suspended person.

33 (3) If a person commits any assault upon employees, agents, or  
34 personnel acting for the department, the director shall suspend hunting  
35 or fishing privileges for ten years.

36 (4) If a person has committed any act for which a court is directed  
37 by statute to order suspension and the court fails to order suspension

1 upon conviction, the director shall suspend hunting and fishing  
2 privileges for the period set by statute.

3 (5) Within twenty days of service of an order suspending privileges  
4 or imposing conditions under this section, a person may petition for  
5 administrative review under chapter 34.05 RCW by serving the director  
6 with a petition for review. The order is final and unappealable if  
7 there is no timely petition for administrative review.

8 (6) The commission may by rule authorize petitions for  
9 reinstatement of administrative suspensions and define circumstances  
10 under which reinstatement will be allowed.

11 NEW SECTION. **Sec. 70.** CIVIL FORFEITURE OF PROPERTY USED FOR  
12 VIOLATION OF THIS CHAPTER. (1) Fish and wildlife officers and ex  
13 officio fish and wildlife officers may seize without warrant boats,  
14 airplanes, vehicles, gear, appliances, or other articles they have  
15 reason to believe are held with intent to violate or have been used in  
16 violation of this chapter. The property seized is subject to  
17 forfeiture to the state under this section regardless of ownership.  
18 Property seized may be recovered by its owner by depositing into court  
19 a cash bond equal to the value of the seized property but not more than  
20 twenty-five thousand dollars. Such cash bond is subject to forfeiture  
21 in lieu of the property. Forfeiture of property seized under this  
22 section is a civil forfeiture against property intended to be a  
23 remedial civil sanction.

24 (2) In the event of a seizure of property under this section,  
25 jurisdiction to begin the forfeiture proceedings shall commence upon  
26 seizure. Within fifteen days following the seizure, the seizing  
27 authority shall serve a written notice of intent to forfeit property on  
28 the owner of the property seized and on any person having any known  
29 right or interest in the property seized. Notice may be served by any  
30 method authorized by law or court rule, including service by certified  
31 mail with return receipt requested. Service by mail is deemed complete  
32 upon mailing within the fifteen-day period following the seizure.

33 (3) Persons claiming a right of ownership or right to possession of  
34 property are entitled to a hearing to contest forfeiture. Such a claim  
35 shall specify the claim of ownership or possession and shall be made in  
36 writing and served on the director within forty-five days of the  
37 seizure. If the seizing authority has complied with notice

1 requirements and there is no claim made within forty-five days, then  
2 the property shall be forfeited to the state.

3 (4) If any person timely serves the director with a claim to  
4 property, the person shall be afforded an opportunity to be heard as to  
5 the person's claim or right. The hearing shall be before the director  
6 or director's designee, or before an administrative law judge appointed  
7 under chapter 34.12 RCW, except that a person asserting a claim or  
8 right may remove the matter to a court of competent jurisdiction if the  
9 aggregate value of the property seized is more than five thousand  
10 dollars.

11 (5) The hearing to contest forfeiture and any subsequent appeal  
12 shall be as provided for in Title 34 RCW. The seizing authority has  
13 the burden to demonstrate that it had reason to believe the property  
14 was held with intent to violate or was used in violation of this title  
15 or rule of the commission or director. The person contesting  
16 forfeiture has the burden of production and proof by a preponderance of  
17 evidence that the person owns or has a right to possess the property  
18 and:

19 (a) That the property was not held with intent to violate or used  
20 in violation of this title or Title 75 RCW; or

21 (b) If the property is a boat, airplane, or vehicle, that the  
22 illegal use or planned illegal use of the boat, airplane, or vehicle  
23 occurred without the owner's knowledge or consent, and that the owner  
24 acted reasonably to prevent illegal uses of such boat, airplane, or  
25 vehicle.

26 (6) A forfeiture of a conveyance encumbered by a perfected security  
27 interest is subject to the interest of the secured party if the secured  
28 party neither had knowledge nor consented to the act or omission. No  
29 security interest in seized property may be perfected after seizure.

30 (7) If seized property is forfeited under this section the  
31 department may retain it for official use unless the property is  
32 required to be destroyed, or upon application by any law enforcement  
33 agency of the state, release such property to the agency for the use of  
34 enforcing this title, or sell such property, and deposit the proceeds  
35 to the wildlife fund, as provided for in RCW 77.12.170.

36 **Sec. 71.** RCW 75.08.011 and 1996 c 267 s 2 are each amended to read  
37 as follows:

1 As used in this title or Title 77 RCW or rules (~~of the~~  
2 ~~department~~) adopted under those titles, unless the context clearly  
3 requires otherwise:

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

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

6 (3) "Department" means the department of fish and wildlife.

7 (4) "Person" means an individual or a public or private entity or  
8 organization. The term "person" includes local, state, and federal  
9 government agencies, and all business organizations, including  
10 corporations and partnerships.

11 (5) "~~(Fisheries patrol)~~ Fish and wildlife officer" means a person  
12 appointed and commissioned by the commission, with authority to enforce  
13 this title, rules of the department, and other statutes as prescribed  
14 by the legislature. ~~(Fisheries patrol)~~ Fish and wildlife officers  
15 are peace officers. Fish and wildlife officer includes a person  
16 commissioned before the effective date of this section as a fisheries  
17 patrol officer.

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

28 (7) "To fish," "to harvest," and "to take" and their derivatives  
29 mean an effort to kill, injure, harass, or catch (~~feed~~) fish or  
30 shellfish.

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

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

37 (10) "Concurrent waters of the Columbia river" means those waters  
38 of the Columbia river that coincide with the Washington-Oregon state  
39 boundary.

1 (11) "Resident" means a person who has maintained a permanent place  
2 of abode within the state for at least ninety days immediately  
3 preceding an application for a license, has established by formal  
4 evidence an intent to continue residing within the state, and who is  
5 not licensed to hunt or fish as a resident in another state.

6 (12) "Nonresident" means a person who has not fulfilled the  
7 qualifications of a resident.

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

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

18 (15) "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 (16) "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 (17) "To process" and its derivatives mean preparing or preserving  
32 food fish or shellfish.

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

35 (19) "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.

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

5 (21) "Fishery" means the taking of one or more particular species  
6 of food fish or shellfish with particular gear in a particular  
7 geographical area.

8 (22) "Limited-entry license" means a license subject to a license  
9 limitation program established in chapter 75.30 RCW.

10 (23) "Seaweed" means marine aquatic plant species that are  
11 dependent upon the marine aquatic or tidal environment, and exist in  
12 either an attached or free floating form, and includes but is not  
13 limited to marine aquatic plants in the classes Chlorophyta,  
14 Phaeophyta, and Rhodophyta.

15 (24) "Fish" includes all species classified as game fish or food  
16 fish by statute or rule, as well as all fin fish not currently  
17 classified as food fish or game fish if such species exist in state  
18 waters. The term "fish" includes all stages of development and the  
19 bodily parts of fish species.

20 **Sec. 72.** RCW 75.08.160 and 1983 1st ex.s. c 46 s 19 are each  
21 amended to read as follows:

22 The director, (~~(fisheries patrol)~~) fish and wildlife officers, ex  
23 officio (~~(fisheries patrol)~~) fish and wildlife officers, and department  
24 employees may enter upon any land or waters and remain there while  
25 performing their duties without liability for trespass.

26 It is lawful for aircraft operated by the department to land and  
27 take off from the beaches or waters of the state. (~~(It is unlawful for~~  
28 ~~a person to interfere with the operation of these aircraft.)~~)

29 **Sec. 73.** RCW 75.08.274 and 1995 1st sp.s. c 2 s 15 are each  
30 amended to read as follows:

31 (~~(Except by permit of)~~) The commission(~~(, it is unlawful to)~~) may  
32 adopt rules to authorize issuance of permits to take food fish or  
33 shellfish for propagation or scientific purposes within state waters.

34 **Sec. 74.** RCW 75.08.295 and 1995 1st sp.s. c 2 s 17 are each  
35 amended to read as follows:

1       (~~Except by permit of~~) The commission(~~(, it is unlawful to)~~) may  
2 adopt rules to authorize issuance of permits to release, plant, or  
3 place food fish or shellfish in state waters.

4       **Sec. 75.** RCW 75.08.300 and 1985 c 457 s 12 are each amended to  
5 read as follows:

6       (~~(1) It is unlawful for any~~) A person other than the United  
7 States, an Indian tribe recognized as such by the federal government,  
8 the state, a subdivision of the state, or a municipal corporation or an  
9 agency of such a unit of government (~~(to)~~) shall not release salmon or  
10 steelhead trout into the public waters of the state and subsequently to  
11 recapture and commercially harvest such salmon or trout. This section  
12 shall not prevent any person from rearing salmon or steelhead trout in  
13 pens or in a confined area under circumstances where the salmon or  
14 steelhead trout are confined and never permitted to swim freely in open  
15 water.

16       (~~(2) A violation of this section constitutes a gross~~  
17 ~~misdemeanor.~~)

18       **Sec. 76.** RCW 75.12.010 and 1995 1st sp.s. c 2 s 25 are each  
19 amended to read as follows:

20       (1) (~~Except as provided in this section, it is unlawful to fish~~  
21 ~~commercially for salmon within the waters described in subsection (2)~~  
22 ~~of this section.~~) The commission may authorize commercial fishing for  
23 sockeye salmon within the waters described in subsection (2) of this  
24 section only during the period June 10th to July 25th and for other  
25 salmon only from the second Monday of September through November 30th,  
26 except during the hours between 4:00 p.m. of Friday and 4:00 p.m. of  
27 the following Sunday.

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  
37 Lummi Island; thence northwesterly along the westerly shore line of



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

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

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

19 ~~((+5))~~ (4) Whenever the commission determines that a stock or run  
20 of salmon cannot be harvested in the usual manner, and that the stock  
21 or run of salmon may be in danger of being wasted and surplus to  
22 natural or artificial spawning requirements, the commission may  
23 authorize units of gill net and purse seine gear in any number or  
24 equivalents, by time and area, to fully utilize the harvestable  
25 portions of these salmon runs for the economic well being of the  
26 citizens of this state. Gill net and purse seine gear other than  
27 emergency and test gear authorized by the director shall not be used in  
28 Lake Washington.

29 ~~((+6))~~ (5) The commission may authorize commercial fishing for  
30 pink salmon in each odd-numbered year from August 1<sup>st</sup> through September  
31 1<sup>st</sup> in the waters lying inside of a line commencing at the most  
32 easterly point of Dungeness Spit and thence projected to Point  
33 Partridge on Whidbey Island and a line commencing at Olele Point and  
34 thence projected easterly to Bush Point on Whidbey Island.

35 **Sec. 77.** RCW 75.12.015 and 1995 1st sp.s. c 2 s 26 are each  
36 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 commission may authorize commercial fishing for coho salmon  
5 in the Pacific Ocean and the Straits of Juan de Fuca only from June  
6 16th through October 31st.

7       (2) The commission may authorize commercial fishing for chinook  
8 salmon in the Pacific Ocean and the Straits of Juan de Fuca only from  
9 March 15th through October 31st.

10       **Sec. 78.** RCW 75.12.040 and 1993 sp.s. c 2 s 27 are each amended to  
11 read as follows:

12       (1) (~~It is unlawful to~~) A person shall not use, operate, or  
13 maintain a gill net which exceeds (~~250 fathoms~~) 1500 feet in length  
14 or a drag seine in the waters of the Columbia river for catching  
15 salmon.

16       (2) (~~It is unlawful to~~) A person shall not construct, install,  
17 use, operate, or maintain within state waters a pound net, round haul  
18 net, lampara net, fish trap, fish wheel, scow fish wheel, set net,  
19 weir, or fixed appliance for catching salmon or steelhead. The  
20 director may authorize the use of this gear for scientific  
21 investigations.

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

25       **Sec. 79.** RCW 75.12.132 and 1984 c 80 s 5 are each amended to read  
26 as follows:

27       (1) (~~It is unlawful to fish for or take salmon commercially with~~  
28 ~~a net within the waters of the tributaries and sloughs described in~~  
29 ~~subsection (2) of this section which flow into or are connected with~~  
30 ~~the Columbia river.~~

31       ~~(2))~~ The (~~director~~) commission shall adopt rules defining  
32 geographical boundaries of the following Columbia river tributaries and  
33 sloughs:

- 34       (a) Washougal river;
- 35       (b) Camas slough;
- 36       (c) Lewis river;
- 37       (d) Kalama river;

- 1 (e) Cowlitz river;
- 2 (f) Elokomín river;
- 3 (g) Elokomín sloughs;
- 4 (h) Skamokawa sloughs;
- 5 (i) Grays river;
- 6 (j) Deep river;
- 7 (k) Grays bay.

8 ~~((+3))~~ (2) The ~~((director))~~ commission may authorize commercial  
9 net fishing for salmon in the tributaries and sloughs from September  
10 1st to November 30th only, if the time, areas, and level of effort are  
11 regulated in order to maximize the recreational fishing opportunity  
12 while minimizing excess returns of fish to hatcheries. The  
13 ~~((director))~~ commission shall not authorize commercial net fishing if  
14 a significant catch of steelhead would occur.

15 **Sec. 80.** RCW 75.12.140 and 1983 1st ex.s. c 46 s 59 are each  
16 amended to read as follows:

17 ~~((It is unlawful to fish for salmon with))~~ The commission shall not  
18 authorize use of reef net fishing gear ~~((in state waters,))~~ except in  
19 the reef net areas described in this section.

20 (1) Point Roberts reef net fishing area includes those waters  
21 within 250 feet on each side of a line projected ~~129~~ true from a point  
22 at longitude ~~123~~ 01' 15" W. latitude ~~48~~ 58' 38" N. to a point one  
23 mile distant, as such description is shown upon the United States Coast  
24 and Geodetic Survey map numbered 6300, published September, 1941, in  
25 Washington, D.C., eleventh edition.

26 (2) Cherry Point reef net fishing area includes those waters inland  
27 and inside the 10-fathom line between lines projected ~~205~~ true from  
28 points on the mainland at longitude ~~122~~ 44' 54" latitude ~~48~~ 51' 48"  
29 and longitude ~~122~~ 44' 18" latitude ~~48~~ 51' 33", a [as] such  
30 descriptions are shown upon the United States Coast and Geodetic Survey  
31 map numbered 6380, published March, 1947, in Washington, D.C., eighth  
32 edition.

33 (3) Lummi Island reef net fishing area includes those waters inland  
34 and inside a line projected from Village Point ~~208~~ true to a point 900  
35 yards distant, thence ~~129~~ true to the point of intersection with a  
36 line projected ~~259~~ true from the shore of Lummi Island ~~122~~ 40' 42"  
37 latitude ~~48~~ 41' 32", as such descriptions are shown upon the United  
38 States Coast and Geodetic Survey map numbered 6380, published March,

1 1947, in Washington, D.C., eighth edition, revised 11-25-57, save and  
2 except that there shall be excluded therefrom all waters lying inside  
3 of a line projected 259½ true from a point at 122½ 40' 42" latitude 48½  
4 41' 32" to a point 300 yards distant from high tide, thence in a  
5 northerly direction to the United States Coast and Geodetic Survey  
6 reference mark number 2, 1941-1950, located on that point on Lummi  
7 Island known as Lovers Point, as such descriptions are shown upon the  
8 United States Coast and Geodetic Survey map number 6380 as aforesaid.  
9 The term "Village Point" as used herein shall be construed to mean a  
10 point of location on Village Point, Lummi Island, at the mean high tide  
11 line on a true bearing of 43½ 53' a distance of 457 feet to the center  
12 of the chimney of a wood frame house on the east side of the county  
13 road. Said chimney and house being described as Village Point Chimney  
14 on page 612 of the United States Coast and Geodetic Survey list of  
15 geographic positions No. G-5455, Rosario Strait.

16 (4) Sinclair Island reef net fishing area includes those waters  
17 inland and inside a line projected from the northern point of Sinclair  
18 Island to Boulder reef, thence 200½ true to the northwesterly point of  
19 Sinclair Island, as such descriptions are shown upon the United States  
20 Coast and Geodetic Survey map numbered 6380, published March, 1947, in  
21 Washington, D.C., eighth edition.

22 (5) Flat Point reef net fishing area includes those waters within  
23 a radius of 175 feet of a point off Lopez Island located at longitude  
24 122½ 55' 24" latitude 48½ 32' 33", as such description is shown upon  
25 the United States Coast and Geodetic Survey map numbered 6380,  
26 published March, 1947, in Washington, D.C., eighth edition.

27 (6) Lopez Island reef net fishing area includes those waters within  
28 400 yards of shore between lines projected true west from points on the  
29 shore of Lopez Island at longitude 122½ 55' 04" latitude 48½ 31' 59"  
30 and longitude 122½ 55' 54" latitude 48½ 30' 55", as such descriptions  
31 are shown upon the United States Coast and Geodetic Survey map numbered  
32 6380, published March, 1947, in Washington, D.C., eighth edition.

33 (7) Iceberg Point reef net fishing area includes those waters  
34 inland and inside a line projected from Davis Point on Lopez Island to  
35 the west point of Long Island, thence to the southern point of Hall  
36 Island, thence to the eastern point at the entrance to Jones Bay, and  
37 thence to the southern point at the entrance to Mackaye Harbor on Lopez  
38 Island; and those waters inland and inside a line projected 320½ from  
39 Iceberg Point light on Lopez Island, a distance of 400 feet, thence

1 easterly to the point on Lopez Island at longitude 122½ 53' 00"  
2 latitude 48½ 25' 39", as such descriptions are shown upon the United  
3 States Coast and Geodetic Survey map numbered 6380, published March,  
4 1947, in Washington, D.C., eighth edition.

5 (8) Aleck Bay reef net fishing area includes those waters inland  
6 and inside a line projected from the southwestern point at the entrance  
7 to Aleck Bay on Lopez Island at longitude 122½ 51' 11" latitude 48½ 25'  
8 14" southeasterly 800 yards to the submerged rock shown on U.S.G.S. map  
9 number 6380, thence northerly to the cove on Lopez Island at longitude  
10 122½ 50' 49" latitude 48½ 25' 42", as such descriptions are shown upon  
11 the United States Coast and Geodetic Survey map numbered 6380,  
12 published March, 1947, in Washington, D.C., eighth edition.

13 (9) Shaw Island reef net fishing area number 1 includes those  
14 waters within 300 yards of shore between lines projected true south  
15 from points on Shaw Island at longitude 122½ 56' 14" latitude 48½ 33'  
16 28" and longitude 122½ 57' 29" latitude 48½ 32' 58", as such  
17 descriptions are shown upon the United States Coast and Geodetic Survey  
18 map numbered 6380, published March, 1947, in Washington, D.C., eighth  
19 edition.

20 (10) Shaw Island reef net fishing area number 2 includes those  
21 waters inland and inside a line projected from Point George on Shaw  
22 Island to the westerly point of Neck Point on Shaw Island, as such  
23 description is shown upon the United States Coast and Geodetic Survey  
24 map numbered 6380, published March, 1947, in Washington, D.C., eighth  
25 edition.

26 (11) Stuart Island reef net fishing area number 1 includes those  
27 waters within 600 feet of the shore of Stuart Island between lines  
28 projected true east from points at longitude 123½ 10' 47" latitude 48½  
29 39' 47" and longitude 123½ 10' 47" latitude 48½ 39' 33", as such  
30 descriptions are shown upon the United States Coast and Geodetic Survey  
31 map numbered 6380, published March, 1947, in Washington, D.C., eighth  
32 edition.

33 (12) Stuart Island reef net fishing area number 2 includes those  
34 waters within 250 feet of Gossip Island, also known as Happy Island, as  
35 such description is shown upon the United States Coast and Geodetic  
36 Survey map numbered 6380, published March, 1947, in Washington, D.C.,  
37 eighth edition.

38 (13) Johns Island reef net fishing area includes those waters  
39 inland and inside a line projected from the eastern point of Johns

1 Island to the northwestern point of Little Cactus Island, thence  
2 northwesterly to a point on Johns Island at longitude 123½ 09' 24"  
3 latitude 48½ 39' 59", as such descriptions are shown upon the United  
4 States Coast and Geodetic Survey map numbered 6380, published March,  
5 1947, in Washington, D.C., eighth edition.

6 (14) Battleship Island reef net fishing area includes those waters  
7 lying within 350 feet of Battleship Island, as such description is  
8 shown upon the United States Coast and Geodetic Survey map numbered  
9 6380, published March, 1947, in Washington, D.C., eighth edition.

10 (15) Open Bay reef net fishing area includes those waters lying  
11 within 150 feet of shore between lines projected true east from a point  
12 on Henry Island at longitude 123½ 11' 34 1/2" latitude 48½ 35' 27 1/2"  
13 at a point 250 feet south, as such descriptions are shown upon the  
14 United States Coast and Geodetic Survey map numbered 6380, published  
15 March, 1947, in Washington, D.C., eighth edition.

16 (16) Mitchell Reef net fishing area includes those waters within a  
17 line beginning at the rock shown on U.S.G.S. map number 6380 at  
18 longitude 123½ 10' 56" latitude 48½ 34' 49 1/2", and projected 50 feet  
19 northwesterly, thence southwesterly 250 feet, thence southeasterly 300  
20 feet, thence northeasterly 250 feet, thence to the point of beginning,  
21 as such descriptions are shown upon the United States Coast and  
22 Geodetic Survey map numbered 6380, published March, 1947, in  
23 Washington, D.C., eighth edition.

24 (17) Smugglers Cove reef fishing area includes those waters within  
25 200 feet of shore between lines projected true west from points on the  
26 shore of San Juan Island at longitude 123½ 10' 29" latitude 48½ 33' 50"  
27 and longitude 123½ 10' 31" latitude 48½ 33' 45", as such descriptions  
28 are shown upon the United States Coast and Geodetic Survey map numbered  
29 6380, published March, 1947, in Washington, D.C., eighth edition.

30 (18) Andrews Bay reef net fishing area includes those waters lying  
31 within 300 feet of the shore of San Juan Island between a line  
32 projected true south from a point at the northern entrance of Andrews  
33 Bay at longitude 123½ 09' 53 1/2" latitude 48½ 33' 00" and the cable  
34 crossing sign in Andrews Bay, at longitude 123½ 09' 45" latitude 48½  
35 33' 04", as such descriptions are shown upon the United States Coast  
36 and Geodetic Survey map numbered 6380, published March, 1947, in  
37 Washington, D.C., eighth edition.

38 (19) Orcas Island reef net fishing area includes those waters  
39 inland and inside a line projected true west a distance of 1,000 yards

1 from the shore of Orcas Island at longitude 122° 57' 40" latitude 48°  
2 41' 06" thence northeasterly to a point 500 feet true west of Point  
3 Doughty, then true east to Point Doughty, as such descriptions are  
4 shown upon the United States Coast and Geodetic Survey map numbered  
5 6380, published March, 1947, in Washington, D.C., eighth edition.

6 **Sec. 81.** RCW 75.12.210 and 1993 c 20 s 2 are each amended to read  
7 as follows:

8 (1) Except as provided in subsection (2) of this section, (~~it is~~  
9 ~~unlawful to fish for or take salmon with~~) the commission shall not  
10 authorize gear other than troll gear or angling gear for taking salmon  
11 within the offshore waters or the waters of the Pacific Ocean over  
12 which the state has jurisdiction lying west of the following line:  
13 Commencing at the point of intersection of the international boundary  
14 line in the Strait of Juan de Fuca and a line drawn between the  
15 lighthouse on Tatoosh Island in Clallam County and Bonilla Point on  
16 Vancouver Island; thence southerly to the lighthouse on Tatoosh Island;  
17 thence southerly to the most westerly point of Cape Flattery; thence  
18 southerly along the state shoreline of the Pacific Ocean, crossing any  
19 river mouths at their most westerly points of land, to Point Brown at  
20 the entrance to Grays Harbor; thence southerly to Point Chehalis Light  
21 on Point Chehalis; thence southerly from Point Chehalis along the state  
22 shoreline of the Pacific Ocean to the Cape Shoalwater tower at the  
23 entrance to Willapa Bay; thence southerly to Leadbetter Point; thence  
24 southerly along the state shoreline of the Pacific Ocean to the inshore  
25 end of the North jetty at the entrance to the Columbia River; thence  
26 southerly to the knuckle of the South jetty at the entrance to said  
27 river.

28 (2) The (~~director~~) commission may authorize the use of nets for  
29 taking salmon in the waters described in subsection (1) of this section  
30 for scientific investigations.

31 **Sec. 82.** RCW 75.12.230 and 1983 1st ex.s. c 46 s 61 are each  
32 amended to read as follows:

33 Within the waters described in RCW 75.12.210, (~~it is unlawful to~~)  
34 a person shall not transport or possess salmon on board a vessel  
35 carrying fishing gear of a type other than troll lines or angling gear,  
36 unless accompanied by a certificate issued by a state or country

1 showing that the salmon have been lawfully taken within the territorial  
2 waters of the state or country.

3 **Sec. 83.** RCW 75.12.390 and 1989 c 172 s 1 are each amended to read  
4 as follows:

5 The commission shall not authorize commercial bottom trawling for  
6 food fish and shellfish (~~((is unlawful))~~) in all areas of Hood Canal  
7 south of a line projected from Tala Point to Foulweather Bluff and in  
8 Puget Sound south of a line projected from Foulweather Bluff to Double  
9 Bluff and including all marine waters east of Whidbey Island and Camano  
10 Island.

11 **Sec. 84.** RCW 75.12.440 and 1993 c 340 s 50 are each amended to  
12 read as follows:

13 (~~((It is unlawful to use))~~) The commission shall not authorize any  
14 commercial fisher to use more than fifty shrimp pots while commercially  
15 fishing for shrimp in that portion of Hood Canal lying south of the  
16 Hood Canal floating bridge.

17 **Sec. 85.** RCW 75.12.650 and 1996 c 267 s 24 are each amended to  
18 read as follows:

19 (~~((It is unlawful to fish commercially for salmon using fishing gear~~  
20 ~~not authorized for commercial salmon fishing by rule of the~~  
21 ~~department.))~~) The commission shall not authorize angling gear or other  
22 personal use gear for commercial salmon fishing.

23 **Sec. 86.** RCW 75.20.040 and 1983 1st ex.s. c 46 s 70 are each  
24 amended to read as follows:

25 A diversion device used for conducting water from a lake, river, or  
26 stream for any purpose shall be equipped with a fish guard approved by  
27 the director to prevent the passage of fish into the diversion device.  
28 The fish guard shall be maintained at all times when water is taken  
29 into the diversion device. The fish guards shall be installed at  
30 places and times prescribed by the director upon thirty days' notice to  
31 the owner of the diversion device. (~~((It is unlawful for the owner of~~  
32 ~~a diversion device to fail to comply with this section.))~~)

33 Each day the diversion device is not equipped with an approved fish  
34 guard is a separate offense. If within thirty days after notice to  
35 equip a diversion device the owner fails to do so, the director may



1 take possession of the diversion device and close the device until it  
2 is properly equipped. Expenses incurred by the department constitute  
3 the value of a lien upon the diversion device and upon the real and  
4 personal property of the owner. Notice of the lien shall be filed and  
5 recorded in the office of the county auditor of the county in which the  
6 action is taken.

7 **Sec. 87.** RCW 75.20.060 and 1983 1st ex.s. c 46 s 72 are each  
8 amended to read as follows:

9 A dam or other obstruction across or in a stream shall be provided  
10 with a durable and efficient fishway approved by the director. Plans  
11 and specifications shall be provided to the department prior to the  
12 director's approval. The fishway shall be maintained in an effective  
13 condition and continuously supplied with sufficient water to freely  
14 pass fish. ~~((It is unlawful for the owner, manager, agent, or person  
15 in charge of the dam or obstruction to fail to comply with this  
16 section.))~~

17 If a person fails to construct and maintain a fishway or to remove  
18 the dam or obstruction in a manner satisfactory to the director, then  
19 within thirty days after written notice to comply has been served upon  
20 the owner, his agent, or the person in charge, the director may  
21 construct a fishway or remove the dam or obstruction. Expenses  
22 incurred by the department constitute the value of a lien upon the dam  
23 and upon the personal property of the person owning the dam. Notice of  
24 the lien shall be filed and recorded in the office of the county  
25 auditor of the county in which the dam or obstruction is situated. The  
26 lien may be foreclosed in an action brought in the name of the state.

27 If, within thirty days after notice to construct a fishway or  
28 remove a dam or obstruction, the owner, his agent, or the person in  
29 charge fails to do so, the dam or obstruction is a public nuisance and  
30 the director may take possession of the dam or obstruction and destroy  
31 it. No liability shall attach for the destruction.

32 **Sec. 88.** RCW 75.20.110 and 1995 1st sp.s. c 2 s 27 are each  
33 amended to read as follows:

34 (1) Except for the north fork of the Lewis river and the White  
35 Salmon river, all streams and rivers tributary to the Columbia river  
36 downstream from McNary dam are established as an anadromous fish  
37 sanctuary. This sanctuary is created to preserve and develop the food

1 fish and game fish resources in these streams and rivers and to protect  
2 them against undue industrial encroachment.

3 (2) Within the sanctuary area:

4 (a) ~~((It is unlawful))~~ The department shall not issue hydraulic  
5 project approval to construct a dam greater than twenty-five feet high  
6 within the migration range of anadromous fish as determined by the  
7 ~~((commission))~~ department.

8 (b) ~~((Except by order of the commission, it is unlawful))~~ The  
9 department shall not issue hydraulic project approval to divert water  
10 from rivers and streams in quantities that will reduce the respective  
11 stream flow below the annual average low flow, based upon data  
12 published in United States geological survey reports.

13 (3) The commission may acquire and abate a dam or other  
14 obstruction, or acquire any water right vested on a sanctuary stream or  
15 river, which is in conflict with the provisions of subsection (2) of  
16 this section.

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

20 **Sec. 89.** RCW 75.24.080 and 1983 1st ex.s. c 46 s 83 are each  
21 amended to read as follows:

22 The director may designate as "restricted shellfish areas" those  
23 areas in which infection or infestation of shellfish is present.  
24 ~~((Except by))~~ A permit ~~((of))~~ issued by the director~~((, it))~~ is  
25 ~~((unlawful))~~ required to transplant or transport into or out of a  
26 restricted area shellfish or equipment used in culturing, taking,  
27 handling, or processing shellfish.

28 **Sec. 90.** RCW 75.24.090 and 1996 c 267 s 26 are each amended to  
29 read as follows:

30 ~~((It is unlawful to destroy))~~ Oysters or clams ~~((by culling them))~~  
31 may not be culled on land or shore and ~~((leaving the culled oysters or~~  
32 ~~clams))~~ left there to die. The culled oysters or clams must be  
33 returned to the harvest area, except as provided by rule of the  
34 department. Failure to comply with this section is wastage.

35 **Sec. 91.** RCW 75.24.100 and 1995 1st sp.s. c 2 s 29 are each  
36 amended to read as follows:

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

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

20       **Sec. 92.** RCW 75.24.110 and 1983 1st ex.s. c 46 s 87 are each  
21 amended to read as follows:

22       (~~It is unlawful for~~) The department may not authorize a person to  
23 import oysters or oyster seed into this state for the purpose of  
24 planting them in state waters without a permit from the director. The  
25 director shall issue a permit only after an adequate inspection has  
26 been made and the oysters or oyster seed are found to be free of  
27 disease, pests, and other substances which might endanger oysters in  
28 state waters.

29       **Sec. 93.** RCW 75.28.010 and 1997 c 58 s 883 are each amended to  
30 read as follows:

31       (1) Except as otherwise provided by this title, (~~it is unlawful~~  
32 ~~to~~) a person may not engage in any of the following activities without  
33 a license or permit issued by the director:

- 34       (a) Commercially fish for or take food fish or shellfish;  
35       (b) Deliver food fish or shellfish taken in offshore waters;  
36       (c) Operate a charter boat or commercial fishing vessel engaged in  
37 a fishery;

1 (d) Engage in processing or wholesaling food fish or shellfish; or  
2 (e) Act as a guide for salmon for personal use in freshwater rivers  
3 and streams, other than that part of the Columbia river below the  
4 bridge at Longview.

5 (2) No person may engage in the activities described in subsection  
6 (1) of this section unless the licenses or permits required by this  
7 title are in the person's possession, and the person is the named  
8 license holder or an alternate operator designated on the license and  
9 the person's license is not suspended.

10 (3) A valid Oregon license that is equivalent to a license under  
11 this title is valid in the concurrent waters of the Columbia river if  
12 the state of Oregon recognizes as valid the equivalent Washington  
13 license. The director may identify by rule what Oregon licenses are  
14 equivalent.

15 (4) No license or permit is required for the production or  
16 harvesting of private sector cultured aquatic products as defined in  
17 RCW 15.85.020 or for the delivery, processing, or wholesaling of such  
18 aquatic products. However, if a means of identifying such products is  
19 required by rules adopted under RCW 15.85.060, the exemption from  
20 licensing or permit requirements established by this subsection applies  
21 only if the aquatic products are identified in conformance with those  
22 rules.

23 **Sec. 94.** RCW 75.28.045 and 1993 c 340 s 7 are each amended to read  
24 as follows:

25 This section applies to all commercial fishery licenses, delivery  
26 licenses, and charter licenses.

27 (1) An applicant for a license subject to this section may  
28 designate a vessel to be used with the license. Except for emergency  
29 salmon delivery licenses, the director may issue a license regardless  
30 of whether the applicant designates a vessel. An applicant may  
31 designate no more than one vessel on a license subject to this section.

32 (2) A license for a fishery that requires a vessel authorizes no  
33 taking or delivery of food fish or shellfish unless a vessel is  
34 designated on the license. A delivery license authorizes no delivery  
35 of food fish or shellfish unless a vessel is designated on the license.

36 (3) ~~((It is unlawful to take food fish or shellfish in a fishery  
37 that requires a vessel except from a vessel designated on a commercial  
38 fishery license for that fishery.~~

1       ~~(4) It is unlawful to operate a vessel as a charter boat unless the~~  
2 ~~vessel is designated on a charter license.~~

3       ~~(5))~~) No vessel may be designated on more than one commercial  
4 fishery license unless the licenses are for different fisheries. No  
5 vessel may be designated on more than one delivery license, on more  
6 than one salmon charter license, or on more than one nonsalmon charter  
7 license.

8       **Sec. 95.** RCW 75.28.095 and 1997 c 76 s 2 are each amended to read  
9 as follows:

10       (1) The director shall issue the charter licenses and angler  
11 permits listed in this section according to the requirements of this  
12 title. The licenses and permits and their annual fees and surcharges  
13 are:

| License or Permit     | Annual Fee                |                       | Governing<br>Section |
|-----------------------|---------------------------|-----------------------|----------------------|
|                       | (RCW 75.50.100 Surcharge) |                       |                      |
|                       | Resident                  | Nonresident           |                      |
| (a) Nonsalmon charter | \$225                     | \$375                 |                      |
| (b) Salmon charter    | \$380<br>(plus \$100)     | \$685<br>(plus \$100) | RCW 75.30.065        |
| (c) Salmon angler     | \$ 0                      | \$ 0                  | RCW 75.30.070        |
| (d) Salmon roe        | \$ 95                     | \$ 95                 | RCW 75.28.690        |

22       ~~(2) ((Except as provided in subsection (5) of this section, it is~~  
23 ~~unlawful to operate a vessel as a charter boat from which salmon or~~  
24 ~~salmon and other food fish or shellfish are taken without a salmon~~  
25 ~~charter license designating the vessel))~~ A salmon charter license  
26 designating a vessel is required to operate a charter boat to take  
27 salmon, other food fish, and shellfish. The director may issue a  
28 salmon charter license only to a person who meets the qualifications of  
29 RCW 75.30.065.

30       ~~(3) ((Except as provided in subsections (2) and (5) of this~~  
31 ~~section, it is unlawful to operate a vessel as a charter boat from~~  
32 ~~which food fish or shellfish are taken without a nonsalmon charter~~  
33 ~~license))~~ A nonsalmon charter license designating a vessel is required  
34 to operate a charter boat to take food fish other than salmon and  
35 shellfish. As used in this subsection, "food fish" does not include  
36 salmon.

37       (4) "Charter boat" means a vessel from which persons may, for a  
38 fee, fish for food fish or shellfish for personal use, and that brings

1 food fish or shellfish into state ports or brings food fish or  
2 shellfish taken from state waters into United States ports. The  
3 director may specify by rule when a vessel is a "charter boat" within  
4 this definition. "Charter boat" does not mean a vessel used by a guide  
5 for clients fishing for food fish for personal use in freshwater  
6 rivers, streams, and lakes, other than Lake Washington or that part of  
7 the Columbia River below the bridge at Longview.

8 (5) A charter boat licensed in Oregon may fish without a Washington  
9 charter license under the same rules as Washington charter boat  
10 operators in ocean waters within the jurisdiction of Washington state  
11 from the southern border of the state of Washington to Leadbetter  
12 Point, as long as the Oregon vessel does not land at any Washington  
13 port with the purpose of taking on or discharging passengers. The  
14 provisions of this subsection shall be in effect as long as the state  
15 of Oregon has reciprocal laws and regulations.

16 (6) A salmon charter license under subsection (1)(b) of this  
17 section may be renewed if the license holder notifies the department by  
18 May 1st of that year that he or she will not participate in the fishery  
19 during that calendar year. The license holder must pay the one  
20 hundred-dollar enhancement surcharge, plus a fifteen-dollar handling  
21 charge, in order to be considered a valid renewal and eligible to renew  
22 the license the following year.

23 **Sec. 96.** RCW 75.28.113 and 1994 c 260 s 22 are each amended to  
24 read as follows:

25 (1) (~~It is unlawful to deliver salmon taken in offshore waters to~~  
26 ~~a place or port in the state without~~) A salmon delivery license (~~from~~  
27 ~~the director~~) is required to deliver salmon taken in offshore waters  
28 to a place or port in the state. The annual fee for a salmon delivery  
29 license is three hundred eighty dollars for residents and six hundred  
30 eighty-five dollars for nonresidents. The annual surcharge under RCW  
31 75.50.100 is one hundred dollars for each license. Holders of  
32 nonlimited entry delivery licenses issued under RCW 75.28.125 may apply  
33 the nonlimited entry delivery license fee against the salmon delivery  
34 license fee.

35 (2) Only a person who meets the qualifications established in RCW  
36 75.30.120 may hold a salmon delivery license issued under this section.

37 (3) A salmon delivery license authorizes no taking of salmon or  
38 other food fish or shellfish from the waters of the state.

1 (4) If the director determines that the operation of a vessel under  
2 a salmon delivery license results in the depletion or destruction of  
3 the state's salmon resource or the delivery into this state of salmon  
4 products prohibited by law, the director may revoke the license under  
5 the procedures of chapter 34.05 RCW.

6 **Sec. 97.** RCW 75.28.125 and 1994 c 260 s 21 are each amended to  
7 read as follows:

8 (1) Except as provided in subsection (2) of this section, (~~it is~~  
9 ~~unlawful to deliver with~~) a person may not use a commercial fishing  
10 vessel to deliver food fish or shellfish taken in offshore waters to a  
11 port in the state without a nonlimited entry delivery license. As used  
12 in this section, "food fish" does not include salmon. As used in this  
13 section, "shellfish" does not include ocean pink shrimp or coastal  
14 crab. The annual license fee for a nonlimited entry delivery license  
15 is one hundred ten dollars for residents and two hundred dollars for  
16 nonresidents.

17 (2) Holders of salmon troll fishery licenses issued under RCW  
18 75.28.110, salmon delivery licenses issued under RCW 75.28.113, crab  
19 pot fishery licenses issued under RCW 75.28.130, food fish trawl«Non-  
20 Puget Sound fishery licenses issued under RCW 75.28.120, Dungeness  
21 crab«coastal fishery licenses, ocean pink shrimp delivery licenses, and  
22 shrimp trawl«Non-Puget Sound fishery licenses issued under RCW  
23 75.28.130 may deliver food fish or shellfish taken in offshore waters  
24 without a nonlimited entry delivery license.

25 (3) A nonlimited entry delivery license authorizes no taking of  
26 food fish or shellfish from state waters.

27 **Sec. 98.** RCW 75.28.710 and 1993 c 340 s 26 are each amended to  
28 read as follows:

29 (1) (~~It is unlawful to~~) A person shall not offer or perform the  
30 services of a professional salmon guide in the taking of salmon for  
31 personal use in freshwater rivers and streams, other than in that part  
32 of the Columbia river below the bridge at Longview, without a  
33 professional salmon guide license.

34 (2) Only an individual at least sixteen years of age may hold a  
35 professional salmon guide license. No individual may hold more than  
36 one professional salmon guide license.

1       **Sec. 99.** RCW 75.28.740 and 1993 c 340 s 18 are each amended to  
2 read as follows:

3       (1) The director may by rule designate a fishery as an emerging  
4 commercial fishery. The director shall include in the designation  
5 whether the fishery is one that requires a vessel.

6       (2) "Emerging commercial fishery" means the commercial taking of a  
7 newly classified species of food fish or shellfish, the commercial  
8 taking of a classified species with gear not previously used for that  
9 species, or the commercial taking of a classified species in an area  
10 from which that species has not previously been commercially taken.  
11 Any species of food fish or shellfish commercially harvested in  
12 Washington state as of June 7, 1990, may be designated as a species in  
13 an emerging commercial fishery, except that no fishery subject to a  
14 license limitation program in chapter 75.30 RCW may be designated as an  
15 emerging commercial fishery.

16       (3) (~~It is unlawful to~~) A person shall not take food fish or  
17 shellfish in a fishery designated as an emerging commercial fishery  
18 without an emerging commercial fishery license and a permit from the  
19 director. The director shall issue two types of permits to accompany  
20 emerging commercial fishery licenses: Trial fishery permits and  
21 experimental fishery permits. Trial fishery permits are governed by  
22 subsection (4) of this section. Experimental fishery permits are  
23 governed by RCW 75.30.220.

24       (4) The director shall issue trial fishery permits for a fishery  
25 designated as an emerging commercial fishery unless the director  
26 determines there is a need to limit the number of participants under  
27 RCW 75.30.220. A person who meets the qualifications of RCW 75.28.020  
28 may hold a trial fishery permit. The holder of a trial fishery permit  
29 shall comply with the terms of the permit. Trial fishery permits are  
30 not transferable from the permit holder to any other person.

31       **Sec. 100.** RCW 75.30.070 and 1993 c 340 s 29 are each amended to  
32 read as follows:

33       (1) Except as provided in subsection (3) of this section, (~~it is~~  
34 ~~unlawful to~~) a person shall not operate a vessel as a charter boat  
35 from which salmon are taken in salt water without an angler permit.  
36 The angler permit shall specify the maximum number of persons that may  
37 fish from the charter boat per trip. The angler permit expires if the  
38 salmon charter license is not renewed.



1 (2) Only a person who holds a salmon charter license issued under  
2 RCW 75.28.095 and 75.30.065 may hold an angler permit.

3 (3) An angler permit shall not be required for charter boats  
4 licensed in Oregon and fishing in ocean waters within the jurisdiction  
5 of Washington state from the southern border of the state of Washington  
6 to Leadbetter Point under the same regulations as Washington charter  
7 boat operators, as long as the Oregon vessel does not land at any  
8 Washington port with the purpose of taking on or discharging  
9 passengers. The provisions of this subsection shall be in effect as  
10 long as the state of Oregon has reciprocal laws and regulations.

11 **Sec. 101.** RCW 75.30.130 and 1997 c 233 s 1 and 1997 c 115 s 1 are  
12 each reenacted and amended to read as follows:

13 (1) (~~It is unlawful to~~) A person shall not commercially take  
14 Dungeness crab (Cancer magister) in Puget Sound without first obtaining  
15 a Dungeness crab--Puget Sound fishery license. As used in this  
16 section, "Puget Sound" has the meaning given in RCW 75.28.110(5)(a).  
17 A Dungeness crab--Puget Sound fishery license is not required to take  
18 other species of crab, including red rock crab (*Cancer productus*).

19 (2) Except as provided in subsections (3) and (6) of this section,  
20 after January 1, 1982, the director shall issue no new Dungeness crab--  
21 Puget Sound fishery licenses. Only a person who meets the following  
22 qualification may renew an existing license: The person shall have  
23 held the Dungeness crab--Puget Sound fishery license sought to be  
24 renewed during the previous year or acquired the license by transfer  
25 from someone who held it during the previous year, and shall not have  
26 subsequently transferred the license to another person.

27 (3) Where the person failed to obtain the license during the  
28 previous year because of a license suspension, the person may qualify  
29 for a license by establishing that the person held such a license  
30 during the last year in which the license was not suspended.

31 (4) This section does not restrict the issuance of commercial crab  
32 licenses for areas other than Puget Sound or for species other than  
33 Dungeness crab.

34 (5) Dungeness crab--Puget Sound fishery licenses are transferable  
35 from one license holder to another.

36 (6) If fewer than one hundred twenty-five persons are eligible for  
37 Dungeness crab--Puget Sound fishery licenses, the director may accept  
38 applications for new licenses. The director shall determine by random

1 selection the successful applicants for the additional licenses. The  
2 number of additional licenses issued shall be sufficient to maintain  
3 one hundred twenty-five licenses in the Puget Sound Dungeness crab  
4 fishery. The director shall adopt rules governing the application,  
5 selection, and issuance procedures for new Dungeness crab--Puget Sound  
6 fishery licenses, based upon recommendations of a board of review  
7 established under RCW 75.30.050.

8 **Sec. 102.** RCW 75.30.140 and 1993 c 340 s 35 are each amended to  
9 read as follows:

10 (1) ~~((It is unlawful to))~~ A person shall not fish commercially for  
11 herring in state waters without a herring fishery license. As used in  
12 this section, "herring fishery license" means any of the following  
13 commercial fishery licenses issued under RCW 75.28.120: Herring dip  
14 bag net; herring drag seine; herring gill net; herring lampara; herring  
15 purse seine.

16 (2) Except as provided in this section, a herring fishery license  
17 may be issued only to a person who(~~+~~

18 ~~(a) Established initial eligibility for a herring fishery license~~  
19 ~~as provided in subsection (3) of this section or acquired such a~~  
20 ~~license by transfer;~~

21 ~~(b) Held a herring fishery license during the previous year or~~  
22 ~~acquired such a license by transfer; and~~

23 ~~(c) Has not subsequently transferred the license to another person.~~

24 ~~(3) A person may establish initial eligibility for a herring~~  
25 ~~fishery license by:~~

26 ~~(a) Documenting to the department that the person landed herring~~  
27 ~~during the period January 1, 1971, through April 15, 1973;~~

28 ~~(b) Documenting to the department that the person landed herring~~  
29 ~~during the period January 1, 1969, through December 31, 1970, if the~~  
30 ~~person was in the armed forces of the United States during the period~~  
31 ~~January 1, 1971, through April 15, 1973; or~~

32 ~~(c) Applying to the department and qualifying for a herring fishery~~  
33 ~~license under hardship criteria established by rule of the director.~~

34 ~~Landings may be documented only by a department fish receiving~~  
35 ~~ticket.~~

36 ~~(4) A herring fishery license may be issued only for the type of~~  
37 ~~fishing gear used to establish initial eligibility for the license.~~

1       ~~(5) The director may establish rules governing the administration~~  
2 ~~of this section based upon recommendations of a board of review~~  
3 ~~established under RCW 75.30.050.~~

4       ~~(6) Except as provided in subsection (8) of this section, after~~  
5 ~~January 1, 1995, the director shall issue no new herring fishery~~  
6 ~~licenses. After January 1, 1995, a person may renew an existing~~  
7 ~~license only if the person)) held the license sought to be renewed~~  
8 ~~during the previous year or acquired the license by transfer from~~  
9 ~~someone who held it during the previous year, and if the person has not~~  
10 ~~subsequently transferred the license to another person.~~

11       ~~((7))~~ (3) Herring fishery licenses may be renewed each year. A  
12 herring fishery license that is not renewed each year shall not be  
13 renewed further.

14       ~~((8))~~ (4) The department may issue additional herring fishery  
15 licenses if the stocks of herring will not be jeopardized by granting  
16 additional licenses.

17       ~~((9))~~ (5) Subject to the restrictions of ~~((section 11 of this~~  
18 ~~act))~~ RCW 75.28.011, herring fishery licenses are transferable from one  
19 license holder to another.

20       **Sec. 103.** RCW 75.30.160 and 1993 c 340 s 38 are each amended to  
21 read as follows:

22       ~~((It is unlawful to))~~ A person shall not commercially take whiting  
23 from areas that the department designates within the waters described  
24 in RCW 75.28.110(5)(a) without a whiting--Puget Sound fishery license.

25       **Sec. 104.** RCW 75.30.210 and 1993 c 340 s 41 are each amended to  
26 read as follows:

27       (1) ~~((It is unlawful to))~~ A person shall not commercially take any  
28 species of sea urchin using shellfish diver gear without first  
29 obtaining a sea urchin dive fishery license.

30       (2) Except as provided in subsections (3) and (6) of this section,  
31 after December 31, 1991, the director shall issue no new sea urchin  
32 dive fishery licenses. Only a person who meets the following  
33 qualifications may renew an existing license:

34       (a) The person shall have held the sea urchin dive fishery license  
35 sought to be renewed during the previous year or acquired the license  
36 by transfer from someone who held it during the previous year; and

1 (b) The person shall document, by valid shellfish receiving tickets  
2 issued by the department, that twenty thousand pounds of sea urchins  
3 were caught and sold under the license sought to be renewed during the  
4 two-year period ending March 31 of the most recent odd-numbered year.

5 (3) Where the person failed to obtain the license during the  
6 previous year because of a license suspension or revocation by the  
7 department or the court, the person may qualify for a license by  
8 establishing that the person held such a license during the last year  
9 in which the person was eligible.

10 (4) The director may reduce or waive the poundage requirement of  
11 subsection (2)(b) of this section upon the recommendation of a board of  
12 review established under RCW 75.30.050. The board of review may  
13 recommend a reduction or waiver of the poundage requirement in  
14 individual cases if, in the board's judgment, extenuating circumstances  
15 prevent achievement of the poundage requirement. The director shall  
16 adopt rules governing the operation of the board of review and defining  
17 "extenuating circumstances."

18 (5) Sea urchin dive fishery licenses are not transferable from one  
19 license holder to another, except from parent to child, or from spouse  
20 to spouse during marriage or as a result of marriage dissolution, or  
21 upon the death of the license holder.

22 (6) If fewer than forty-five persons are eligible for sea urchin  
23 dive fishery licenses, the director may accept applications for new  
24 licenses. The director shall determine by random selection the  
25 successful applicants for the additional licenses. The number of  
26 additional licenses issued shall be sufficient to maintain up to forty-  
27 five licenses in the sea urchin dive fishery. The director shall adopt  
28 rules governing the application, selection, and issuance procedure for  
29 new sea urchin dive fishery licenses, based upon recommendations of a  
30 board of review established under RCW 75.30.050.

31 **Sec. 105.** RCW 75.30.250 and 1993 c 340 s 44 are each amended to  
32 read as follows:

33 (1) (~~It is unlawful to~~) A person shall not commercially take  
34 while using shellfish diver gear any species of sea cucumber without  
35 first obtaining a sea cucumber dive fishery license.

36 (2) Except as provided in subsection (6) of this section, after  
37 December 31, 1991, the director shall issue no new sea cucumber dive

1 fishery licenses. Only a person who meets the following qualifications  
2 may renew an existing license:

3 (a) The person shall have held the sea cucumber dive fishery  
4 license sought to be renewed during the previous two years or acquired  
5 the license by transfer from someone who held it during the previous  
6 year; and

7 (b) The person shall establish, by means of dated shellfish  
8 receiving documents issued by the department, that thirty landings of  
9 sea cucumbers totaling at least ten thousand pounds were made under the  
10 license during the previous two-year period ending December 31 of the  
11 odd-numbered year.

12 (3) Where the person failed to obtain the license during either of  
13 the previous two years because of a license suspension by the  
14 department or the court, the person may qualify for a license by  
15 establishing that the person held such a license during the last year  
16 in which the person was eligible.

17 (4) The director may reduce or waive any landing or poundage  
18 requirement established under this section upon the recommendation of  
19 a board of review established under RCW 75.30.050. The board of review  
20 may recommend a reduction or waiver of any landing or poundage  
21 requirement in individual cases if, in the board's judgment,  
22 extenuating circumstances prevent achievement of the landing or  
23 poundage requirement. The director shall adopt rules governing the  
24 operation of the board of review and defining "extenuating  
25 circumstances."

26 (5) Sea cucumber dive fishery licenses are not transferable from  
27 one license holder to another except from parent to child, from spouse  
28 to spouse during marriage or as a result of marriage dissolution, or  
29 upon death of the license holder.

30 (6) If fewer than fifty persons are eligible for sea cucumber dive  
31 fishery licenses, the director may accept applications for new licenses  
32 from those persons who can demonstrate two years' experience in the  
33 Washington state sea cucumber dive fishery. The director shall  
34 determine by random selection the successful applicants for the  
35 additional licenses. The number of additional licenses issued shall be  
36 sufficient to maintain up to fifty licenses in the sea cucumber dive  
37 fishery. The director shall adopt rules governing the application,  
38 selection, and issuance procedure for new sea cucumber dive fishery

1 licenses, based upon recommendations of a board of review established  
2 under RCW 75.30.050.

3 **Sec. 106.** RCW 75.30.280 and 1993 c 340 s 46 are each amended to  
4 read as follows:

5 (1) (~~(It is unlawful to)~~) A person shall not harvest geoduck clams  
6 commercially without a geoduck fishery license. This section does not  
7 apply to the harvest of private sector cultured aquatic products as  
8 defined in RCW 15.85.020.

9 (2) Only a person who has entered into a geoduck harvesting  
10 agreement with the department of natural resources under RCW 79.96.080  
11 may hold a geoduck fishery license.

12 (3) A geoduck fishery license authorizes no taking of geoducks  
13 outside the boundaries of the public lands designated in the underlying  
14 harvesting agreement, or beyond the harvest ceiling set in the  
15 underlying harvesting agreement.

16 (4) A geoduck fishery license expires when the underlying geoduck  
17 harvesting agreement terminates.

18 (5) The director shall determine the number of geoduck fishery  
19 licenses that may be issued for each geoduck harvesting agreement, the  
20 number of units of gear whose use the license authorizes, and the type  
21 of gear that may be used, subject to RCW 75.24.100. In making those  
22 determinations, the director shall seek to conserve the geoduck  
23 resource and prevent damage to its habitat.

24 (6) The holder of a geoduck fishery license and the holder's agents  
25 and representatives shall comply with all applicable commercial diving  
26 safety regulations adopted by the federal occupational safety and  
27 health administration established under the federal occupational safety  
28 and health act of 1970 as such law exists on May 8, 1979, 84 Stat. 1590  
29 et seq.; 29 U.S.C. Sec. 651 et seq. A violation of those regulations  
30 is a violation of this subsection. For the purposes of this section,  
31 persons who dive for geoducks are "employees" as defined by the federal  
32 occupational safety and health act. A violation of this subsection is  
33 grounds for suspension or revocation of a geoduck fishery license  
34 following a hearing under the procedures of chapter 34.05 RCW. The  
35 department shall not suspend or revoke a geoduck fishery license if the  
36 violation has been corrected within ten days of the date the license  
37 holder receives written notice of the violation. If there is a  
38 substantial probability that a violation of the commercial diving

1 standards could result in death or serious physical harm to a person  
2 engaged in harvesting geoduck clams, the department shall suspend the  
3 license immediately until the violation has been corrected. If the  
4 license holder is not the operator of the harvest vessel and has  
5 contracted with another person for the harvesting of geoducks, the  
6 department shall not suspend or revoke the license if the license  
7 holder terminates its business relationship with that person until  
8 compliance with this subsection is secured.

9 **Sec. 107.** RCW 75.30.290 and 1993 c 376 s 5 are each amended to  
10 read as follows:

11 (~~(After December 31, 1993, it is unlawful to)~~) A person shall not  
12 commercially deliver into any Washington state port ocean pink shrimp  
13 caught in offshore waters without an ocean pink shrimp delivery license  
14 issued under RCW 75.28.730, or an ocean pink shrimp single delivery  
15 license issued under RCW 75.30.320. An ocean pink shrimp delivery  
16 license shall be issued to a vessel that:

17 (1) Landed a total of at least five thousand pounds of ocean pink  
18 shrimp in Washington in any single calendar year between January 1,  
19 1983, and December 31, 1992, as documented by a valid shellfish  
20 receiving ticket; and

21 (2) Can show continuous participation in the Washington, Oregon, or  
22 California ocean pink shrimp fishery by being eligible to land ocean  
23 pink shrimp in either Washington, Oregon, or California each year since  
24 the landing made under subsection (1) of this section. Evidence of  
25 such eligibility shall be a certified statement from the relevant state  
26 licensing agency that the applicant for a Washington ocean pink shrimp  
27 delivery license held at least one of the following permits:

28 (a) For Washington: Possession of a delivery permit or delivery  
29 license issued under RCW 75.28.125 or a trawl license (other than Puget  
30 Sound) issued under RCW 75.28.140;

31 (b) For Oregon: Possession of a vessel permit issued under Oregon  
32 Revised Statute 508.880; or

33 (c) For California: A trawl permit issued under California Fish  
34 and Game Code sec. 8842.

35 **Sec. 108.** RCW 75.30.350 and 1995 c 252 s 1 are each amended to  
36 read as follows:

1       (1) (~~Effective January 1, 1995, it is unlawful to~~) A person shall  
2 not commercially fish for coastal crab in Washington state waters  
3 without a Dungeness crab~~»~~coastal or a Dungeness crab~~»~~coastal class B  
4 fishery license. Gear used must consist of one buoy attached to each  
5 crab pot. Each crab pot must be fished individually.

6       (2) A Dungeness crab~~»~~coastal fishery license is transferable.  
7 Except as provided in subsection (3) of this section, such a license  
8 shall only be issued to a person who proved active historical  
9 participation in the coastal crab fishery by having designated, after  
10 December 31, 1993, a vessel or a replacement vessel on the qualifying  
11 license that singly or in combination meets the following criteria:

12       (a) Made a minimum of eight coastal crab landings totaling a  
13 minimum of five thousand pounds per season in at least two of the four  
14 qualifying seasons identified in subsection (5) of this section, as  
15 documented by valid Washington state shellfish receiving tickets; and  
16 showed historical and continuous participation in the coastal crab  
17 fishery by having held one of the following licenses or their  
18 equivalents each calendar year beginning 1990 through 1993, and was  
19 designated on the qualifying license of the person who held one of the  
20 following licenses in 1994:

21       (i) Crab pot~~»~~Non-Puget Sound license, issued under RCW  
22 75.28.130(1)(b);

23       (ii) Nonsalmon delivery license, issued under RCW 75.28.125;

24       (iii) Salmon troll license, issued under RCW 75.28.110;

25       (iv) Salmon delivery license, issued under RCW 75.28.113;

26       (v) Food fish trawl license, issued under RCW 75.28.120; or

27       (vi) Shrimp trawl license, issued under RCW 75.28.130; or

28       (b) Made a minimum of four Washington landings of coastal crab  
29 totaling two thousand pounds during the period from December 1, 1991,  
30 to March 20, 1992, and made a minimum of eight crab landings totaling  
31 a minimum of five thousand pounds of coastal crab during each of the  
32 following periods: December 1, 1991, to September 15, 1992; December  
33 1, 1992, to September 15, 1993; and December 1, 1993, to September 15,  
34 1994. For landings made after December 31, 1993, the vessel shall  
35 have been designated on the qualifying license of the person making the  
36 landings; or

37       (c) Made any number of coastal crab landings totaling a minimum of  
38 twenty thousand pounds per season in at least two of the four  
39 qualifying seasons identified in subsection (5) of this section, as



1 documented by valid Washington state shellfish receiving tickets,  
2 showed historical and continuous participation in the coastal crab  
3 fishery by having held one of the qualifying licenses each calendar  
4 year beginning 1990 through 1993, and the vessel was designated on the  
5 qualifying license of the person who held that license in 1994.

6 (3) A Dungeness crab-coastal fishery license shall be issued to a  
7 person who had a new vessel under construction between December 1,  
8 1988, and September 15, 1992, if the vessel made coastal crab landings  
9 totaling a minimum of five thousand pounds by September 15, 1993, and  
10 the new vessel was designated on the qualifying license of the person  
11 who held that license in 1994. All landings shall be documented by  
12 valid Washington state shellfish receiving tickets. License  
13 applications under this subsection may be subject to review by the  
14 advisory review board in accordance with RCW 75.30.050. For purposes  
15 of this subsection, "under construction" means either:

16 (a)(i) A contract for any part of the work was signed before  
17 September 15, 1992; and

18 (ii) The contract for the vessel under construction was not  
19 transferred or otherwise alienated from the contract holder between the  
20 date of the contract and the issuance of the Dungeness crab-coastal  
21 fishery license; and

22 (iii) Construction had not been completed before December 1, 1988;  
23 or

24 (b)(i) The keel was laid before September 15, 1992; and

25 (ii) Vessel ownership was not transferred or otherwise alienated  
26 from the owner between the time the keel was laid and the issuance of  
27 the Dungeness crab-coastal fishery license; and

28 (iii) Construction had not been completed before December 1, 1988.

29 (4) A Dungeness crab-coastal class B fishery license is not  
30 transferable. Such a license shall be issued to persons who do not  
31 meet the qualification criteria for a Dungeness crab-coastal fishery  
32 license, if the person has designated on a qualifying license after  
33 December 31, 1993, a vessel or replacement vessel that, singly or in  
34 combination, made a minimum of four landings totaling a minimum of two  
35 thousand pounds of coastal crab, documented by valid Washington state  
36 shellfish receiving tickets, during at least one of the four qualifying  
37 seasons, and if the person has participated continuously in the coastal  
38 crab fishery by having held or by having owned a vessel that held one  
39 or more of the licenses listed in subsection (2) of this section in

1 each calendar year subsequent to the qualifying season in which  
2 qualifying landings were made through 1994. Dungeness crab coastal  
3 class B fishery licenses cease to exist after December 31, 1999, and  
4 the continuing license provisions of RCW 34.05.422(3) are not  
5 applicable.

6 (5) The four qualifying seasons for purposes of this section are:

7 (a) December 1, 1988, through September 15, 1989;

8 (b) December 1, 1989, through September 15, 1990;

9 (c) December 1, 1990, through September 15, 1991; and

10 (d) December 1, 1991, through September 15, 1992.

11 (6) For purposes of this section and RCW 75.30.420, "coastal crab"  
12 means Dungeness crab (cancer magister) taken in all Washington  
13 territorial and offshore waters south of the United States-Canada  
14 boundary and west of the Bonilla-Tatoosh line (a line from the western  
15 end of Cape Flattery to Tatoosh Island lighthouse, then to the buoy  
16 adjacent to Duntz Rock, then in a straight line to Bonilla Point of  
17 Vancouver island), Grays Harbor, Willapa Bay, and the Columbia river.

18 (7) For purposes of this section, "replacement vessel" means a  
19 vessel used in the coastal crab fishery in 1994, and that replaces a  
20 vessel used in the coastal crab fishery during any period from 1988  
21 through 1993, and which vessel's licensing and catch history, together  
22 with the licensing and catch history of the vessel it replaces,  
23 qualifies a single applicant for a Dungeness crab coastal or Dungeness  
24 crab coastal class B fishery license. A Dungeness crab coastal or  
25 Dungeness crab coastal class B fishery license may only be issued to a  
26 person who designated a vessel in the 1994 coastal crab fishery and who  
27 designated the same vessel in 1995.

28 **Sec. 109.** RCW 75.30.450 and 1994 c 260 s 16 are each amended to  
29 read as follows:

30 (1) (~~(It is unlawful for)~~) A Dungeness crab coastal fishery  
31 (~~(licensees to)~~) licensee shall not take Dungeness crab in the waters  
32 of the exclusive economic zone westward of the states of Oregon or  
33 California and land crab taken in those waters into Washington state  
34 unless the licensee also holds the licenses, permits, or endorsements,  
35 required by Oregon or California to land crab into Oregon or  
36 California, respectively.

37 (2) This section becomes effective only upon reciprocal legislation  
38 being enacted by both the states of Oregon and California. For

1 purposes of this section, "exclusive economic zone" means that zone  
2 defined in the federal fishery conservation and management act (16  
3 U.S.C. Sec. 1802) as of January 1, 1995, or as of a subsequent date  
4 adopted by rule of the director.

5 **Sec. 110.** RCW 75.58.010 and 1993 sp.s. c 2 s 55 are each amended  
6 to read as follows:

7 (1) The director of agriculture and the director shall jointly  
8 develop a program of disease inspection and control for aquatic farmers  
9 as defined in RCW 15.85.020. The program shall be administered by the  
10 department under rules established under this section. The purpose of  
11 the program is to protect the aquaculture industry and wildstock  
12 fisheries from a loss of productivity due to aquatic diseases or  
13 maladies. As used in this section "diseases" means, in addition to its  
14 ordinary meaning, infestations of parasites or pests. The disease  
15 program may include, but is not limited to, the following elements:

16 (a) Disease diagnosis;

17 (b) Import and transfer requirements;

18 (c) Provision for certification of stocks;

19 (d) Classification of diseases by severity;

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

21 (f) Provision for containment and eradication of high-risk  
22 diseases;

23 (g) Provision for destruction of diseased cultured aquatic  
24 products;

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

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

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

28 (k) Provision for cooperative consultation service to aquatic  
29 farmers; and

30 (l) Provision for disease history records.

31 (2) The (~~director~~) commission shall adopt rules implementing this  
32 section. However, such rules shall have the prior approval of the  
33 director of agriculture and shall provide therein that the director of  
34 agriculture has provided such approval. The director of agriculture or  
35 the director's designee shall attend the rule-making hearings conducted  
36 under chapter 34.05 RCW and shall assist in conducting those hearings.  
37 The authorities granted the department by these rules and by RCW  
38 75.08.080(1)(g), 75.24.080, 75.24.110, 75.28.125, 75.58.020, 75.58.030,

1 and 75.58.040 constitute the only authorities of the department to  
2 regulate private sector cultured aquatic products and aquatic farmers  
3 as defined in RCW 15.85.020. Except as provided in subsection (3) of  
4 this section, no action may be taken against any person to enforce  
5 these rules unless the department has first provided the person an  
6 opportunity for a hearing. In such a case, if the hearing is  
7 requested, no enforcement action may be taken before the conclusion of  
8 that hearing.

9 (3) The rules adopted under this section shall specify the  
10 emergency enforcement actions that may be taken by the department, and  
11 the circumstances under which they may be taken, without first  
12 providing the affected party with an opportunity for a hearing.  
13 Neither the provisions of this subsection nor the provisions of  
14 subsection (2) of this section shall preclude the department from  
15 requesting the initiation of criminal proceedings for violations of the  
16 disease inspection and control rules.

17 (4) (~~It is unlawful for any person to~~) A person shall not violate  
18 the rules adopted under subsection (2) or (3) of this section or (~~to~~)  
19 violate RCW 75.58.040.

20 (5) In administering the program established under this section,  
21 the department shall use the services of a pathologist licensed to  
22 practice veterinary medicine.

23 (6) The director in administering the program shall not place  
24 constraints on or take enforcement actions in respect to the  
25 aquaculture industry that are more rigorous than those placed on the  
26 department or other fish-rearing entities.

27 **Sec. 111.** RCW 77.08.010 and 1996 c 207 s 2 are each amended to  
28 read as follows:

29 As used in this title or Title 75 RCW or rules adopted pursuant to  
30 (~~this~~) those titles, unless the context clearly requires otherwise:

- 31 (1) "Director" means the director of fish and wildlife.  
32 (2) "Department" means the department of fish and wildlife.  
33 (3) "Commission" means the state fish and wildlife commission.  
34 (4) "Person" means and includes an individual, a corporation, or a  
35 group of two or more individuals acting with a common purpose whether  
36 acting in an individual, representative, or official capacity.  
37 (5) "Fish and wildlife (~~agent~~) officer" means a person appointed  
38 and commissioned by the director, with authority to enforce laws and

1 rules adopted pursuant to this title, and other statutes as prescribed  
2 by the legislature. Fish and wildlife officer includes a person  
3 commissioned before the effective date of this section as a fisheries  
4 patrol officer.

5 (6) "Ex officio fish and wildlife ((agent)) officer" means a  
6 commissioned officer of a municipal, county, state, or federal agency  
7 having as its primary function the enforcement of criminal laws in  
8 general, while the officer is in the appropriate jurisdiction. The  
9 term "ex officio fish and wildlife ((agent)) officer" includes  
10 ((~~fisheries patrol officers,~~)) special agents of the national marine  
11 fisheries service, state parks commissioned officers, United States  
12 fish and wildlife special agents, department of natural resources  
13 enforcement officers, and United States forest service officers, while  
14 the agents and officers are within their respective jurisdictions.

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

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

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

21 (10) "Open season" means those times, manners of taking, and places  
22 or waters established by rule of the commission for the lawful hunting,  
23 fishing, or possession of game animals, game birds, or game fish that  
24 conform to the special restrictions or physical descriptions  
25 established by rule of the commission or that have otherwise been  
26 deemed legal to hunt, fish, or possess by rule of the commission.  
27 "Open season" includes the first and last days of the established time.

28 (11) "Closed season" means all times, manners of taking, and places  
29 or waters other than those established by rule of the commission as an  
30 open season. "Closed season" also means all hunting, fishing, or  
31 possession of game animals, game birds, or game fish that do not  
32 conform to the special restrictions or physical descriptions  
33 established by rule of the commission as an open season or that have  
34 not otherwise been deemed legal to hunt, fish, or possess by rule of  
35 the commission as an open season.

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

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

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

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

7 (16) "Wildlife" means all species of the animal kingdom whose  
8 members exist in Washington in a wild state. This includes but is not  
9 limited to mammals, birds, reptiles, amphibians, fish, and  
10 invertebrates. The term "wildlife" does not include feral domestic  
11 mammals, the family Muridae of the order Rodentia (old world rats and  
12 mice), or those fish, shellfish, and marine invertebrates classified as  
13 food fish or shellfish by the director. The term "wildlife" includes  
14 all stages of development and the bodily parts of wildlife members.

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

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

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

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

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

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

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

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

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

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

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

4 (28) "Fish" includes all species classified as game fish or food  
5 fish by statute or rule, as well as all fin fish not currently  
6 classified as food fish or game fish if such species exist in state  
7 waters. The term "fish" includes all stages of development and the  
8 bodily parts of fish species.

9 **Sec. 112.** RCW 77.12.055 and 1993 sp.s. c 2 s 67 are each amended  
10 to read as follows:

11 ~~((Jurisdiction and authority granted under RCW 77.12.060,~~  
12 ~~77.12.070, and 77.12.080 to the director, wildlife agents,)) Fish and~~  
13 ~~wildlife officers and ex officio ((wildlife agents is limited to the~~  
14 ~~laws and rules adopted pursuant to this title pertaining to wildlife or~~  
15 ~~to the management, operation, maintenance, or use of or conduct on real~~  
16 ~~property used, owned, leased, or controlled by the department)) fish~~  
17 ~~and wildlife officers shall enforce this title, Title 75 RCW, rules of~~  
18 ~~the department, and other statutes as prescribed by the legislature.~~  
19 ~~((However, when acting within the scope of these duties and when an~~  
20 ~~offense occurs in the presence of the wildlife agent who is not an ex~~  
21 ~~officio wildlife agent, the wildlife agent))~~

22 (2) Fish and wildlife officers who are not ex officio fish and  
23 wildlife officers are police officers who may enforce all criminal laws  
24 of the state. The ((wildlife agent)) fish and wildlife officer must  
25 have successfully completed the basic law enforcement academy course  
26 sponsored by the criminal justice training commission, or a  
27 ((supplemental)) course ((in criminal law enforcement as)) approved by  
28 the department and the criminal justice training commission and  
29 provided by the department or the criminal justice training commission,  
30 prior to enforcing the criminal laws of the state.

31 ~~((2) Wildlife agents)) (3) Fish and wildlife officers are peace~~  
32 ~~officers.~~

33 ~~((3)) (4) Any liability or claim of liability ((which)) under~~  
34 ~~chapter 4.92 RCW that arises out of the exercise or alleged exercise of~~  
35 ~~authority by a ((wildlife agent)) fish and wildlife officer rests with~~  
36 ~~the department unless the ((wildlife agent)) fish and wildlife officer~~  
37 ~~acts under the direction and control of another agency or unless the~~

1 liability is otherwise assumed under (~~a written~~) an agreement between  
2 the department and another agency.

3 (~~((4) Wildlife agents))~~ (5) Fish and wildlife officers may serve  
4 and execute warrants and processes issued by the courts.

5 (6) Fish and wildlife officers may enforce RCW 79.01.805 and  
6 79.01.810.

7 (7) To enforce the laws of this title and Title 75 RCW, fish and  
8 wildlife officers may call to their aid any ex officio fish and  
9 wildlife officer or citizen and that person shall render aid.

10 NEW SECTION. Sec. 113. Based upon articulable facts that a person  
11 is engaged in fishing or hunting activities, fish and wildlife officers  
12 have the authority to temporarily stop the person and check for valid  
13 licenses, tags, permits, stamps, or catch record cards, and to inspect  
14 all fish and wildlife in possession as well as the equipment being used  
15 to ensure compliance with the requirements of this title and Title 75  
16 RCW.

17 **Sec. 114.** RCW 77.12.080 and 1987 c 506 s 19 are each amended to  
18 read as follows:

19 (~~(Wildlife agents))~~ Fish and wildlife officers and ex officio  
20 (~~(wildlife agents))~~ fish and wildlife officers may arrest without  
21 warrant persons found violating the law or rules adopted pursuant to  
22 this title and Title 75 RCW.

23 **Sec. 115.** RCW 77.12.090 and 1987 c 506 s 20 are each amended to  
24 read as follows:

25 (~~(Wildlife agents,)~~) Fish and wildlife officers and ex officio  
26 (~~(wildlife agents))~~ fish and wildlife officers may make a reasonable  
27 search without warrant of a person, vessel, container, or conveyances,  
28 vehicles, packages, game baskets, game coats, or other receptacles for  
29 fish and wildlife, or tents, camps, or similar places which they have  
30 reason to believe contain evidence of a violation of law or rules  
31 adopted pursuant to this title or Title 75 RCW and seize evidence as  
32 needed for law enforcement. This does not preclude seizure of property  
33 if authorized for forfeiture as authorized by law.

34 **Sec. 116.** RCW 77.12.095 and 1982 c 152 s 1 are each amended to  
35 read as follows:



1       (~~Wildlife agents~~) Fish and wildlife officers may inspect without  
2 warrant at reasonable times and in a reasonable manner the premises,  
3 containers, fishing equipment, fish and wildlife, and required records  
4 of any commercial enterprise (~~operating~~) required to operate under  
5 the authority of a license or permit issued by the department or any  
6 commercial business that sells, buys, brokers, stores, transports, or  
7 possesses fish or wildlife.

8       **Sec. 117.** RCW 77.12.120 and 1980 c 78 s 26 are each amended to  
9 read as follows:

10       (~~Upon complaint showing probable cause for believing that wildlife~~  
11 ~~unlawfully caught, taken, killed, controlled, possessed, or~~  
12 ~~transported, is concealed or kept in a game basket, game coat, package,~~  
13 ~~or other receptacle for wildlife, or at a business place, vehicle, or~~  
14 ~~other place, the~~) On a showing of probable cause that there has been  
15 a violation of any fish or wildlife law of the state of Washington, or  
16 upon a showing of probable cause to believe that evidence of such  
17 violation may be found at a place, a court shall issue a search warrant  
18 (and have the place searched for wildlife) or arrest warrant. Fish  
19 and wildlife officers may execute any such arrest or search warrant  
20 reasonably necessary to their duties under this title or Title 75 RCW  
21 and may seize fish and wildlife or any evidence of a crime and the  
22 fruits or instrumentalities of a crime as provided by warrant. The  
23 court may have a building, enclosure, vehicle, vessel, container, or  
24 receptacle opened or entered and the contents examined.

25       **Sec. 118.** RCW 77.16.010 and 1987 c 506 s 58 are each amended to  
26 read as follows:

27       (~~It is unlawful to~~) A person shall not promote, conduct, hold, or  
28 sponsor a contest for the hunting or fishing of wildlife or a  
29 competitive field trial involving live wildlife for hunting dogs  
30 without first obtaining a hunting or fishing contest permit. Contests  
31 and field trials shall be held in accordance with established rules.

32       **Sec. 119.** RCW 77.16.020 and 1996 c 207 s 3 are each amended to  
33 read as follows:

34       (~~(1) It is unlawful to hunt, fish, or possess a game animal, game~~  
35 ~~bird, or game fish during closed season for that game animal, game~~  
36 ~~bird, or game fish except as provided in RCW 77.12.105 or 77.12.265.~~

1       ~~(2) It is unlawful to kill, take, catch, possess, or control a~~  
2 ~~game animal, game bird, or game fish in excess of the number fixed as~~  
3 ~~the bag limit for that game animal, game bird, or game fish.~~

4       ~~(3) It is unlawful to hunt within a game reserve or to fish for~~  
5 ~~game fish within closed waters.~~

6       ~~(4) It is unlawful to hunt wild birds or wild animals within a~~  
7 ~~closed area except as authorized by rule of the commission.~~

8       ~~(5) It is unlawful to hunt or fish for wildlife, practice taxidermy~~  
9 ~~for profit, deal in raw furs for profit, act as a fishing guide, or~~  
10 ~~operate a game farm, stock game fish, or collect wildlife for research~~  
11 ~~or display, without having in possession the license, permit, tag,~~  
12 ~~stamp, or catch record card required by chapter 77.32 RCW or rule of~~  
13 ~~the department. The activities described in this subsection shall be~~  
14 ~~conducted in accordance with rules adopted pursuant to this title.~~

15       ~~(6)) For the purposes of ((this section)) establishing a season or~~  
16 ~~bag limit restriction on Canada goose hunting, the department shall not~~  
17 ~~consider leg length or bill length of dusky Canada geese (Branta~~  
18 ~~canadensis occidentalis).~~

19       **Sec. 120.** RCW 77.16.095 and 1987 c 506 s 63 are each amended to  
20 read as follows:

21       ~~((It is unlawful to mutilate)) The commission may adopt rules~~  
22 ~~governing the possession of fish and wildlife so that the size,~~  
23 ~~species, or sex ((cannot)) can be determined visually in the field or~~  
24 ~~while being transported. ((The director may prescribe specific~~  
25 ~~criteria for field identification to satisfy this section.))~~

26       **Sec. 121.** RCW 77.16.170 and 1993 sp.s. c 2 s 75 are each amended  
27 to read as follows:

28       ~~((It is unlawful to take a wild animal from another person's trap~~  
29 ~~without permission, or to spring, pull up, damage, possess, or destroy~~  
30 ~~the trap; however, it is not unlawful for)) A property owner, lessee,~~  
31 ~~or tenant ((to)) may remove a trap placed on the owner's, lessee's, or~~  
32 ~~tenant's posted or fenced property by a trapper.~~

33       Trappers shall attach to the chain of their traps or devices a  
34 legible metal tag with either the department identification number of  
35 the trapper or the name and address of the trapper in English letters  
36 not less than one-eighth inch in height.

1       When an individual presents a trapper identification number to the  
2 department and requests identification of the trapper, the department  
3 shall provide the individual with the name and address of the trapper.  
4 Prior to disclosure of the trapper's name and address, the department  
5 shall obtain the name and address of the requesting individual in  
6 writing and after disclosing the trapper's name and address to the  
7 requesting individual, the requesting individual's name and address  
8 shall be disclosed in writing to the trapper whose name and address was  
9 disclosed.

10       **Sec. 122.** RCW 77.16.220 and 1980 c 78 s 89 are each amended to  
11 read as follows:

12       (~~It is unlawful to~~) A person shall not divert water from a lake,  
13 river, or stream containing game fish unless the water diversion device  
14 is equipped at or near its intake with a fish guard or screen to  
15 prevent the passage of game fish into the device and, if necessary,  
16 with a means of returning game fish from immediately in front of the  
17 fish guard or screen to the waters of origin. A person who is now  
18 otherwise lawfully diverting water from a lake, river or stream shall  
19 not be deemed guilty of a violation of this section.

20       Plans for the fish guard, screen, and bypass shall be approved by  
21 the director prior to construction. The installation shall be approved  
22 by the director prior to the diversion of water.

23       The director may close a water diversion device operated in  
24 violation of this section and keep it closed until it is properly  
25 equipped with a fish guard, screen, or bypass.

26       **Sec. 123.** RCW 77.32.350 and 1992 c 41 s 1 are each amended to read  
27 as follows:

28       In addition to a basic hunting license, a supplemental license,  
29 permit, or stamp is required to hunt for quail, partridge, pheasant, or  
30 migratory waterfowl, to hunt with a raptor, or to hunt wild animals  
31 with a dog.

32       (1) A hound permit is required to hunt wild animals, except rabbits  
33 and hares, with a dog. The fee for this permit is twelve dollars.

34       (2) An eastern Washington upland game bird permit is required to  
35 hunt for quail, partridge, and pheasant in eastern Washington. The fee  
36 for this permit is ten dollars.

1 (3) A western Washington upland game bird permit is required to  
2 hunt for quail, partridge, and pheasant in western Washington. The fee  
3 for this permit is thirty-five dollars. Western Washington upland game  
4 bird permits must contain numbered spaces for recording the location  
5 and date of harvest of each western Washington pheasant. (~~It is~~  
6 ~~unlawful to~~) A person shall not harvest a western Washington pheasant  
7 without immediately recording this information on the permit.

8 (4) Effective January 1, 1993, the permit shall be available as a  
9 season option, a juvenile full season option, or a two-day option. The  
10 fee for this permit is:

11 (a) For the full season option, thirty-five dollars;

12 (b) For the juvenile full season or the two-day option, twenty  
13 dollars.

14 For the purposes of this subsection a juvenile is defined as a  
15 person under fifteen years of age upon the opening date of the western  
16 Washington pheasant season.

17 (5) Western Washington upland game permits are valid for the  
18 following number of pheasants and harvesting pheasants in excess of  
19 these numbers requires another permit:

20 (a) A full season permit is valid for no more than ten pheasants;

21 (b) A juvenile full season permit is valid for no more than six  
22 pheasants;

23 (c) A two-day permit is valid for no more than four pheasants.

24 (6) A falconry license is required to possess or hunt with a  
25 raptor, including seasons established exclusively for hunting in that  
26 manner. The fee for this license is thirty-six dollars.

27 (7) A migratory waterfowl stamp affixed to a basic hunting license  
28 is required for all persons sixteen years of age or older to hunt  
29 migratory waterfowl. The fee for the stamp is six dollars.

30 (8) The migratory waterfowl stamp shall be validated by the  
31 signature of the licensee written across the face of the stamp.

32 (9) The migratory waterfowl stamps required by this section expire  
33 on March 31st following the date of issuance.

34 NEW SECTION. Sec. 124. REPEALER. The following acts or parts of  
35 acts are each repealed:

36 (1) RCW 75.10.010 and 1996 c 267 s 4;

37 (2) RCW 75.10.020 and 1996 c 267 s 5, 1983 1st ex.s. c 46 s 33, &  
38 1955 c 12 s 75.08.170;

1 (3) RCW 75.10.030 and 1996 c 267 s 6, 1990 c 144 s 5, 1983 1st  
2 ex.s. c 46 s 34, & 1955 c 12 s 75.36.010;

3 (4) RCW 75.10.040 and 1996 c 267 s 7, 1983 1st ex.s. c 46 s 35,  
4 1980 c 78 s 134, & 1955 c 12 s 75.08.200;

5 (5) RCW 75.10.050 and 1996 c 267 s 8, 1983 1st ex.s. c 46 s 36, &  
6 1955 c 12 s 75.08.280;

7 (6) RCW 75.10.060 and 1983 1st ex.s. c 46 s 37 & 1955 c 12 s  
8 75.36.040;

9 (7) RCW 75.10.080 and 1983 1st ex.s. c 46 s 39 & 1955 c 12 s  
10 75.36.050;

11 (8) RCW 75.10.090 and 1983 1st ex.s. c 46 s 40 & 1955 c 12 s  
12 75.08.180;

13 (9) RCW 75.10.110 and 1996 c 267 s 10, 1990 c 144 s 6, 1987 c 380  
14 s 16, 1983 1st ex.s. c 46 s 42, 1979 ex.s. c 99 s 1, & 1955 c 12 s  
15 75.08.260;

16 (10) RCW 75.10.120 and 1996 c 267 s 11, 1990 c 144 s 7, 1983 1st  
17 ex.s. c 46 s 43, 1979 ex.s. c 99 s 2, 1957 c 171 s 5, & 1955 c 12 s  
18 75.28.380;

19 (11) RCW 75.10.130 and 1996 c 267 s 12, 1983 1st ex.s. c 46 s 44,  
20 & 1979 ex.s. c 99 s 3;

21 (12) RCW 75.10.140 and 1996 c 267 s 13, 1990 c 163 s 7, 1984 c 80  
22 s 4, 1983 1st ex.s. c 46 s 45, & 1979 ex.s. c 141 s 7;

23 (13) RCW 75.10.170 and 1996 c 267 s 15 & 1990 c 63 s 5;

24 (14) RCW 75.10.180 and 1996 c 267 s 16 & 1990 c 144 s 1;

25 (15) RCW 75.10.190 and 1996 c 267 s 17 & 1990 c 144 s 2;

26 (16) RCW 75.10.200 and 1996 c 267 s 18, 1993 sp.s. c 2 s 26, & 1990  
27 c 144 s 3;

28 (17) RCW 75.10.210 and 1990 c 144 s 4;

29 (18) RCW 75.12.020 and 1996 c 267 s 19, 1983 1st ex.s. c 46 s 49,  
30 & 1955 c 12 s 75.12.020;

31 (19) RCW 75.12.031 and 1983 1st ex.s. c 46 s 51 & 1955 c 12 s  
32 75.20.070;

33 (20) RCW 75.12.070 and 1996 c 267 s 20, 1983 1st ex.s. c 46 s 53,  
34 & 1955 c 12 s 75.12.070;

35 (21) RCW 75.12.090 and 1990 c 144 s 8, 1983 1st ex.s. c 46 s 54,  
36 1982 c 14 s 1, & 1955 c 12 s 75.12.090;

37 (22) RCW 75.12.100 and 1996 c 267 s 21, 1983 1st ex.s. c 46 s 55,  
38 & 1955 c 12 s 75.12.100;

1 (23) RCW 75.12.115 and 1996 c 267 s 22, 1983 1st ex.s. c 46 s 56,  
2 & 1971 ex.s. c 106 s 1;  
3 (24) RCW 75.12.120 and 1985 c 51 s 7, 1983 1st ex.s. c 46 s 57, &  
4 1955 c 12 s 75.12.120;  
5 (25) RCW 75.12.125 and 1983 1st ex.s. c 46 s 58;  
6 (26) RCW 75.12.127 and 1993 c 340 s 49;  
7 (27) RCW 75.12.400 and 1983 1st ex.s. c 46 s 64 & 1982 c 14 s 2;  
8 (28) RCW 75.12.410 and 1983 1st ex.s. c 46 s 66 & 1955 c 12 s  
9 75.08.130;  
10 (29) RCW 75.12.420 and 1996 c 267 s 23, 1983 1st ex.s. c 46 s 67,  
11 & 1955 c 12 s 75.08.210;  
12 (30) RCW 75.12.430 and 1983 1st ex.s. c 46 s 68 & 1955 c 12 s  
13 75.08.220;  
14 (31) RCW 75.24.050 and 1996 c 267 s 25, 1983 1st ex.s. c 46 s 80,  
15 & 1955 c 12 s 75.24.050;  
16 (32) RCW 75.25.150 and 1994 c 255 s 7, 1993 sp.s. c 17 s 9, 1989 c  
17 305 s 13, 1984 c 80 s 9, & 1983 1st ex.s. c 46 s 99;  
18 (33) RCW 77.12.060 and 1987 c 506 s 17, 1980 c 78 s 18, 1961 c 68  
19 s 1, & 1955 c 36 s 77.12.060;  
20 (34) RCW 77.12.070 and 1987 c 506 s 18, 1980 c 78 s 19, 1971 ex.s.  
21 c 173 s 1, 1961 c 68 s 2, & 1955 c 36 s 77.12.070;  
22 (35) RCW 77.16.040 and 1987 c 506 s 60, 1980 c 78 s 72, 1971 ex.s.  
23 c 166 s 4, 1961 c 75 s 1, & 1955 c 36 s 77.16.040;  
24 (36) RCW 77.16.050 and 1980 c 78 s 73 & 1955 c 36 s 77.16.050;  
25 (37) RCW 77.16.060 and 1993 sp.s. c 2 s 73, 1987 c 506 s 61, 1980  
26 c 78 s 74, & 1955 c 36 s 77.16.060;  
27 (38) RCW 77.16.070 and 1980 c 78 s 75 & 1955 c 36 s 77.16.070;  
28 (39) RCW 77.16.080 and 1987 c 506 s 62, 1980 c 78 s 76, & 1955 c 36  
29 s 77.16.080;  
30 (40) RCW 77.16.090 and 1980 c 78 s 77 & 1955 c 36 s 77.16.090;  
31 (41) RCW 77.16.100 and 1980 c 78 s 79, 1977 ex.s. c 275 s 1, & 1955  
32 c 36 s 77.16.100;  
33 (42) RCW 77.16.110 and 1987 c 506 s 64, 1980 c 78 s 80, & 1955 c 36  
34 s 77.16.110;  
35 (43) RCW 77.16.120 and 1980 c 78 s 81 & 1955 c 36 s 77.16.120;  
36 (44) RCW 77.16.130 and 1987 c 506 s 65, 1980 c 78 s 82, & 1955 c 36  
37 s 77.16.130;  
38 (45) RCW 77.16.150 and 1987 c 506 s 66, 1980 c 78 s 83, & 1955 c 36  
39 s 77.16.150;

1 (46) RCW 77.16.160 and 1980 c 78 s 84 & 1955 c 36 s 77.16.160;  
2 (47) RCW 77.16.180 and 1987 c 506 s 67, 1980 c 78 s 86, & 1955 c 36  
3 s 77.16.180;  
4 (48) RCW 77.16.190 and 1980 c 78 s 87 & 1955 c 36 s 77.16.190;  
5 (49) RCW 77.16.250 and 1989 c 297 s 5, 1980 c 78 s 93, & 1955 c 36  
6 s 77.16.250;  
7 (50) RCW 77.16.260 and 1980 c 78 s 94, 1955 c 85 s 1, & 1955 c 36  
8 s 77.16.260;  
9 (51) RCW 77.16.310 and 1981 c 310 s 4, 1980 c 78 s 125, & 1979  
10 ex.s. c 127 s 1;  
11 (52) RCW 77.16.320 and 1987 c 506 s 68, 1981 c 310 s 5, & 1980 c 44  
12 s 1;  
13 (53) RCW 77.16.330 and 1987 c 506 s 104 & 1985 c 243 s 3;  
14 (54) RCW 77.16.610 and 1982 c 155 s 3;  
15 (55) RCW 77.21.010 and 1988 c 265 s 3;  
16 (56) RCW 77.21.040 and 1989 c 314 s 5, 1987 c 506 s 72, 1980 c 78  
17 s 25, & 1955 c 36 s 77.12.110; and  
18 (57) RCW 77.21.060 and 1989 c 314 s 6, 1987 c 506 s 73, 1980 c 78  
19 s 122, & 1955 c 36 s 77.32.260.

20 NEW SECTION. **Sec. 125.** RECODIFICATION. The following sections  
21 are recodified as new sections in the chapter created in section 128 of  
22 this act:

23 RCW 75.10.100  
24 RCW 75.10.220  
25 RCW 75.12.320  
26 RCW 77.12.120  
27 RCW 77.12.130  
28 RCW 77.16.135

29 NEW SECTION. **Sec. 126.** SHORT TITLE. This chapter may be known  
30 and cited as the fish and wildlife enforcement code.

31 NEW SECTION. **Sec. 127.** CAPTIONS NOT LAW. Captions used in this  
32 chapter are not any part of the law.

33 NEW SECTION. **Sec. 128.** Sections 1 through 49, 51 through 67, 69,  
34 70, 113, 126, and 127 of this act constitute a new chapter in Title 77  
35 RCW.

1        NEW SECTION.    **Sec. 129.**    The enactment of chapter . . . , Laws of  
2    1998 (this act) does not terminate, or in any way modify, any  
3    liability, civil or criminal, that was in existence on the effective  
4    date of this section.

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