

HOUSE BILL ANALYSIS

SSB 5638

Title: An act relating to making corrections to the fish and wildlife enforcement code.

Brief Description: Correcting fish and wildlife enforcement code provisions.

Sponsors: Senate Committee on Natural Resources, Parks & Recreation (originally sponsored by Senators Hargrove, Oke, Morton and T. Sheldon; by request of Department of Fish and Wildlife).

HOUSE COMMITTEE ON NATURAL RESOURCES

Meeting Date: March 30, 1999.

Bill Analysis Prepared by: Bill Lynch, Counsel (786-7092)

Background: The Legislature consolidated enforcement provisions of the fish and wildlife code when it enacted ESSB 6328 during the 1998 legislative session. Some omissions were discovered after passage of this legislation.

Hunting and fishing regulation statutes do not consistently refer to unlawful possession. Unlawful trafficking in fish or wildlife is an offense, but the term trafficking— is undefined and it does not appear in many of the regulatory statutes. The Fish and Wildlife Commission authorizes the hunting of game animals and game birds, and penalties apply when these animals or birds are unlawfully hunted. No similar penalties apply for unlawfully hunting wild animals or wild birds.

Shellfish are not consistently referenced in the statute prohibiting waste of fish and wildlife. It is unlawful to take fish or shellfish at a time not authorized by law, or from an area that is closed. The Department of Fish and Wildlife may establish special restrictions or physical descriptions of fish or shellfish which may be taken, but it is not an express violation of the commercial fishing area or time law to take fish or shellfish that do not conform with these restrictions or descriptions.

It is unlawful to enter upon, use, or remain upon Department of Fish and Wildlife lands or facilities in violation of a rule of the department. This prohibition does not expressly apply to land or facilities controlled by the department.

It is unlawful to carry, transport, convey, possess, or control a loaded shotgun or rifle **in** a motor vehicle, but the law does not address transporting a loaded shotgun or rifle **on** a

motor vehicle. Unlawful possession of a loaded firearm in a motor vehicle is a misdemeanor, but there is no prescribed penalty for unlawful use of a firearm. Hunting while under the influence of intoxicating liquor or drugs is unlawful, but the seriousness of the crime is not fixed in statute.

A treaty Indian fisherman may be assisted by his or her spouse, siblings, children, and grandchildren in exercising treaty Indian fishing rights when the treaty Indian fisherman is present at the fishing site. There is no requirement for the treaty fisherman's tribe to authorize this assistance in writing.

The department licenses a number of different activities, but the penalty for violating a suspension of department privileges only applies to hunting and fishing.

A license is required to practice taxidermy, but the penalty only applies if taxidermy is practiced for a profit.

Summary of Bill: Hunting and fishing regulation statutes are amended to include unlawful possession and trafficking as an offense. Trafficking— is defines as offering, attempting to engage, or engaging in sale, barter, or purchase of fish, shellfish, wildlife, or deleterious exotic wildlife. The regulation of hunting of wild animals and birds, instead of just game animals and birds, is authorized.

Shellfish are expressly included throughout the statute prohibiting waste of fish and wildlife. It is a violation of the commercial fishing area or time statute to take, fish for, possess, deliver, or receive food fish or shellfish that do not conform to the special restrictions or physical restrictions established by rule of the department.

The use of department-controlled lands, in addition to department-owned lands, is made subject to rules of the Department of Fish and Wildlife.

Firearm statutes expressly prohibit possession of a loaded firearm on a motor vehicle, and the unlawful use of a loaded firearm is a misdemeanor. Hunting while under the influence of intoxicating liquor or drugs is a gross misdemeanor.

Treaty Indian fishermen must have the written authorization of their tribe to fish with the assistance of others. This requirement does not apply to assistance provided by other treaty Indian fishermen with off-reservation treaty fishing rights in the same usual and accustomed places.

A violation for engaging in an activity for which privileges have been suspended applies to all activities licensed by the department, including dealing and guiding, and not just hunting and fishing.

Practicing taxidermy without a license for commercial purposes is unlawful regardless of whether it is done for profit.

Appropriation: None.

Fiscal Note: Available.

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

Passed Seante: 3/13/99, 44-0