

2 **ESHB 1286** - S AMD 366
3 By Senators Jacobsen and Oke

4 ADOPTED 04/18/01

5 Strike everything after the enacting clause and insert the
6 following:

7 "Sec. 1. RCW 77.95.210 and 2000 c 107 s 11 are each amended to
8 read as follows:

9 (1) Except as provided in subsection (2) of this section, the
10 department may supply, at a reasonable charge, surplus salmon eggs to
11 a person for use in the cultivation of salmon. The department shall
12 not intentionally create a surplus of salmon to provide eggs for sale.
13 The department shall only sell salmon eggs from stocks that are not
14 suitable for salmon population rehabilitation or enhancement in state
15 waters in Washington after the salmon harvest on surplus salmon has
16 been first maximized by both commercial and recreational fishers.

17 (2) The department shall not destroy hatchery origin salmon for the
18 purposes of destroying viable eggs that would otherwise be useful for
19 propagation or salmon recovery purposes, as determined by the
20 department and Indian tribes with treaty fishing rights in a
21 collaborative manner, for replenishing fish runs. Eggs deemed surplus
22 by the state must be provided, in the following order of priority, to:

23 (a) Voluntary cooperative salmon culture programs under the
24 supervision of the department under chapter 77.100 RCW;

25 (b) Regional fisheries enhancement group salmon culture programs
26 under the supervision of the department under this chapter;

27 (c) Salmon culture programs requested by lead entities and approved
28 by the salmon funding recovery board under chapter 77.85 RCW;

29 (d) Hatcheries of federally approved tribes in Washington to whom
30 eggs are moved, not sold, under the interlocal cooperation act, chapter
31 39.34 RCW; and

32 (e) Governmental hatcheries in Washington, Oregon, and Idaho.

33 The order of priority established in this subsection for
34 distributing surplus eggs does not apply when there is a shortfall in
35 the supply of eggs.

1 (3) All sales, provisions, distributions, or transfers shall be
2 consistent with the department's egg transfer and aquaculture disease
3 control regulations as now existing or hereafter amended. Prior to
4 department determination that eggs of a salmon stock are surplus and
5 available for sale, the department shall assess the productivity of
6 each watershed that is suitable for receiving eggs.

7 **Sec. 2.** RCW 77.95.270 and 1989 c 336 s 6 are each amended to read
8 as follows:

9 Except as provided in RCW 77.95.210, the department may make
10 available to private contractors salmon eggs in excess of department
11 hatchery needs for the purpose of contract rearing to release the
12 smolts into public waters. However, providing salmon eggs as specified
13 in RCW 77.95.210(2) has the highest priority. The priority of
14 providing eggs surplus after meeting the requirements of RCW
15 77.95.210(2) to contract rearing ((shall be)) is a higher priority than
16 providing eggs to aquaculture purposes ((which)) that are not destined
17 for release into Washington public waters.

18 **Sec. 3.** RCW 77.100.050 and 1987 c 505 s 73 are each amended to
19 read as follows:

20 (1) The department shall:

21 (a) Encourage and support the establishment of cooperative
22 agreements for the development and operation of cooperative food fish,
23 shellfish, game fish, game bird, game animal, and nongame wildlife
24 projects, and projects which provide an opportunity for volunteer
25 groups to become involved in resource and habitat-oriented activities.
26 All cooperative projects shall be fairly considered in the approval of
27 cooperative agreements;

28 (b) Identify regions and species or activities that would be
29 particularly suitable for cooperative projects providing benefits
30 compatible with department goals;

31 (c) Determine the availability of rearing space at operating
32 facilities or of net pens, egg boxes, portable rearing containers,
33 incubators, and any other rearing facilities for use in cooperative
34 projects, and allocate them to volunteer groups as fairly as possible;

35 (d) Make viable eggs available for replenishing fish runs, and
36 salmon carcasses for nutrient enhancement of streams. If a regional
37 fisheries enhancement group, lead entity, volunteer cooperative group,

1 federally approved tribe in Washington, or a governmental hatchery in
2 Washington, Oregon, or Idaho requests the department for viable eggs,
3 the department must include the request within the brood stock document
4 prepared for review by the regional offices. The eggs shall be
5 distributed in accordance with the priority established in RCW
6 77.95.210 if they are available. A request for viable eggs may only be
7 denied if the eggs would not be useful for propagation or salmon
8 recovery purposes, as determined under RCW 77.95.210.

9 (e) Exempt volunteer groups from payment of fees to the department
10 for activities related to the project;

11 ~~((e))~~ (f) Publicize the cooperative program;

12 ~~((f))~~ (g) Not substitute a new cooperative project for any part
13 of the department's program unless mutually agreeable to the department
14 and volunteer group;

15 ~~((g))~~ (h) Not approve agreements that are incompatible with
16 legally existing land, water, or property rights.

17 (2) The department may, when requested, provide to volunteer groups
18 its available professional expertise and assist the volunteer group to
19 evaluate its project. The department must conduct annual workshops in
20 each administrative region of the department that has fish stocks
21 listed as threatened or endangered under the federal endangered species
22 act, 16 U.S.C. Sec. 1531 et seq., in order to assist volunteer groups
23 with egg rearing, share information on successful salmon recovery
24 projects accomplished by volunteers within the state, and provide basic
25 training on monitoring efforts that can be accomplished by volunteers
26 in order to help determine if their efforts are successful.

27 **Sec. 4.** RCW 77.100.060 and 2000 c 107 s 112 are each amended to
28 read as follows:

29 The commission shall establish by rule:

30 (1) The procedure for entering a cooperative agreement and the
31 application forms for a permit to release fish or wildlife required by
32 RCW 77.12.457. The procedure shall indicate the information required
33 from the volunteer group as well as the process of review by the
34 department. The process of review shall include the means to
35 coordinate with other agencies and Indian tribes when appropriate and
36 to coordinate the review of any necessary hydraulic permit approval
37 applications.

1 (2) The procedure for providing within forty-five days of receipt
2 of a proposal a written response to the volunteer group indicating the
3 date by which an acceptance or rejection of the proposal can be
4 expected, the reason why the date was selected, and a written summary
5 of the process of review. The response should also include any
6 suggested modifications to the proposal which would increase its
7 likelihood of approval and the date by which such modified proposal
8 could be expected to be accepted. If the proposal is rejected, the
9 department must provide in writing the reasons for rejection. The
10 volunteer group may request the director or the director's designee to
11 review information provided in the response.

12 (3) The priority of the uses to which eggs, seed, juveniles, or
13 brood stock are put. Use by cooperative projects shall be second in
14 priority only to the needs of programs of the department or of other
15 public agencies within the territorial boundaries of the state. Sales
16 of eggs, seed, juveniles, or brood stock have a lower priority than use
17 for cooperative projects. The rules must identify and implement
18 appropriate protocols for brood stock handling, including the
19 outplanting of adult fish, spawning, incubation, rearing, and release
20 and establish a prioritized schedule for implementation of this act,
21 and shall include directives for allowing more hatchery salmon to spawn
22 naturally in areas where progeny of hatchery fish have spawned,
23 including the outplanting of adult fish, in order to increase the
24 number of viable salmon eggs and restore healthy numbers of fish within
25 the state.

26 (4) The procedure for the director to notify a volunteer group that
27 the agreement for the project is being revoked for cause and the
28 procedure for revocation. Revocation shall be documented in writing to
29 the volunteer group. Cause for revocation may include: (a) The
30 unavailability of adequate biological or financial resources; (b) the
31 development of unacceptable biological or resource management
32 conflicts; or (c) a violation of agreement provisions. Notice of cause
33 to revoke for a violation of agreement provisions may specify a
34 reasonable period of time within which the volunteer group must comply
35 with any violated provisions of the agreement.

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

1 NEW SECTION. **Sec. 5.** A new section is added to chapter 77.04 RCW
2 to read as follows:

3 (1) The department shall prepare an annual surplus salmon report.
4 This report shall include the disposition of adult salmonids that have
5 returned to salmonid hatchery facilities operated under the
6 jurisdiction of the state that:

- 7 (a) Have not been harvested; and
- 8 (b) Were not allowed to escape for natural spawning.

9 (2) The report shall include, by species, the number and estimated
10 weight of surplus salmon and steelhead and a description of the
11 disposition of the adult carcasses including, but not limited to, the
12 following categories:

- 13 (a) Disposed in landfills;
- 14 (b) Transferred to another government agency for reproductive
15 purposes;
- 16 (c) Sold to contract buyers in the round;
- 17 (d) Sold to contract buyers after spawning;
- 18 (e) Transferred to Native American tribes;
- 19 (f) Donated to food banks; and
- 20 (g) Used in stream nutrient enrichment programs.

21 (3) The report shall also include, by species, information on the
22 number of requests for viable salmon eggs, the number of these requests
23 that were granted and the number that were denied, the geographic areas
24 for which these requests were granted or denied, and a brief
25 explanation given for each denial of a request for viable salmon eggs.

26 (4) The report shall be included in the biennial state of the
27 salmon report required by RCW 77.85.020 and other similar state reports
28 on salmon.

29 (5) The report shall include an assessment of the infrastructure
30 needs and facility modifications necessary to implement this act.

31 NEW SECTION. **Sec. 6.** This act is necessary for the immediate
32 preservation of the public peace, health, or safety, or support of the
33 state government and its existing public institutions, and takes effect
34 immediately."

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4 On page 1, line 1 of the title, after "eggs;" strike the remainder
5 of the title and insert "amending RCW 77.95.210, 77.95.270, 77.100.050,
6 and 77.100.060; adding a new section to chapter 77.04 RCW; and
7 declaring an emergency."

EFFECT: The fish and wildlife commission shall establish
directives for allowing the outplanting of adult fish.

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