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**SUBSTITUTE HOUSE BILL 1304**

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**State of Washington**

**57th Legislature**

**2001 Regular Session**

**By** House Committee on Natural Resources (originally sponsored by Representatives Doumit, Ericksen, Eickmeyer, Jackley, Sump, Pearson and Linville; by request of Department of Fish and Wildlife)

Read first time . Referred to Committee on .

1 AN ACT Relating to providing the fish and wildlife commission  
2 authority to issue pamphlet hydraulic project approval; amending RCW  
3 77.15.300; adding a new section to chapter 77.55 RCW; creating a new  
4 section; prescribing penalties; and providing an expiration date.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that the department of  
7 fish and wildlife issues thousands of hydraulic project approvals each  
8 year at a substantial commitment of government resources for individual  
9 permitting review and writing. The legislature recognizes the  
10 importance of such individual approval processes to ensure proper  
11 protection of fish life and reasonable conditioning for hydraulic  
12 project approval decisions. However, the legislature also recognizes  
13 that certain subjects, such as small scale mining which is addressed by  
14 RCW 77.55.270, can be more effectively addressed by pamphlets that  
15 describe general rules which, if followed, will ensure proper  
16 protection of fish life and lessen the burden on applicants and allow  
17 the department to address its significant responsibilities. The  
18 legislature does not seek to alter the scope of the department's  
19 existing authority regarding what activities are "hydraulic projects"

1 or the department's existing obligation to regulate solely for the  
2 protection of fish life. The legislature, however, adopts this act to  
3 authorize and encourage the department to address appropriate, defined  
4 activities by rules.

5 NEW SECTION. **Sec. 2.** A new section is added to chapter 77.55 RCW  
6 to read as follows:

7 (1) As an alternative to requiring and issuing individual hydraulic  
8 project approvals under RCW 77.55.100, 77.55.110, and 77.55.200, the  
9 department may adopt rules that describe approved and disapproved time,  
10 manner, locations, methods, or other conditions for conducting  
11 hydraulic projects or other work that will use, divert, obstruct, or  
12 change the natural flow or bed of any of the salt or fresh waters of  
13 the state. The conditions for approval or disapproval shall be  
14 reasonably necessary to protection of fish life. The rules shall:

15 (a) Describe the time, manner, locations, methods, or other  
16 conditions under which the described activity is approved;

17 (b) Describe the activity that is exempt from individual hydraulic  
18 project approval, if conducted in conformance with the rules;

19 (c) Be published in pamphlets, which may provide other reasonably  
20 necessary information or educational materials designed to aid  
21 compliance with the approved time, manner, and methods provided by  
22 rule; and

23 (d) Be provided by the department for free or, when determined by  
24 the fish and wildlife commission, for a fee that shall reasonably  
25 reflect the cost of publication, preparation, and distribution of the  
26 pamphlet.

27 (2) Rules adopted under this section may require possession of the  
28 pamphlet at the hydraulic project activity site or while conducting the  
29 activity. The rules shall be enforced under RCW 77.15.300.

30 (3) In adopting rules to implement this section, the department  
31 shall ensure that this alternative hydraulic project approval is only  
32 available for repetitive low-risk permit approval requests for which  
33 there are predictable mitigation measures, and that complex projects,  
34 or projects that generally require site-specific mitigation measures,  
35 will continue to undergo individual hydraulic project approval. The  
36 rules must also include a description of the method that the department  
37 will use to track, monitor, and evaluate the projects approved by this  
38 alternative process. The fish and wildlife commission shall provide

1 for public review and comment of any candidates for the pamphlet type  
2 of approval before committing to final selection.

3 (4) The department shall report to the appropriate legislative  
4 committees by January 1, 2006, on the number and type of alternative  
5 permit approvals granted under this section. The report shall include  
6 information regarding how resources that would have been used to  
7 process these alternative permits as individual permits were shifted to  
8 more complex projects.

9 (5) This section expires July 1, 2006.

10 **Sec. 3.** RCW 77.15.300 and 2000 c 107 s 239 are each amended to  
11 read as follows:

12 (1) A person is guilty of unlawfully undertaking hydraulic project  
13 activities if the person:

14 (a) Constructs any form of hydraulic project or performs other work  
15 on a hydraulic project and(~~+~~

16 ~~(a))~~ fails to have a hydraulic project approval required under  
17 chapter 77.55 RCW for such construction or work; (~~or~~)

18 (b) Violates any requirements or conditions of the hydraulic  
19 project approval for such construction or work; or

20 (c) Violates any rule adopted under RCW 77.55.150, 77.55.270, or  
21 section 2 of this act that identifies the time, manner, locations,  
22 methods, or other conditions under which an activity is approved or not  
23 approved.

24 (2) Unlawfully undertaking hydraulic project activities is a gross  
25 misdemeanor.

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