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SENATE BILL 5436

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State of Washington

57th Legislature

2001 Regular Session

By Senators Regala and Morton; by request of Department of Fish and Wildlife

Read first time 01/23/2001. Referred to Committee on Natural Resources, Parks & Shorelines.

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; and prescribing penalties.

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

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

34 (a) Constructs any form of hydraulic project or performs other work  
35 on a hydraulic project and((+)

36 (a+)) fails to have a hydraulic project approval required under  
37 chapter 77.55 RCW for such construction or work; ((or))

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

3 (c) Violates any rule adopted under section 2 of this act that  
4 identifies the time, manner, locations, methods, or other conditions  
5 under which an activity is approved or not approved.

6 (2) Unlawfully undertaking hydraulic project activities is a gross  
7 misdemeanor.

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