

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5961

57th Legislature
2001 Regular Session

Passed by the Senate April 17, 2001
YEAS 47 NAYS 0

President of the Senate

Passed by the House April 6, 2001
YEAS 93 NAYS 0

**Speaker of the
House of Representatives**

**Speaker of the
House of Representatives**

Approved

Governor of the State of Washington

CERTIFICATE

I, Tony M. Cook, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5961** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5961

AS AMENDED BY THE HOUSE

Passed Legislature - 2001 Regular Session

State of Washington 57th Legislature 2001 Regular Session

By Senate Committee on Natural Resources, Parks & Shorelines
(originally sponsored by Senators Jacobsen and Oke; by request of
Department of Fish and Wildlife)

READ FIRST TIME 02/27/2001.

1 AN ACT Relating to making technical corrections to fish and
2 wildlife statutes; amending RCW 4.24.350, 43.70.185, 46.09.200,
3 46.10.200, 69.30.010, 69.30.110, 69.30.140, 70.93.050, 76.04.045,
4 77.08.010, 77.12.039, 77.12.043, 77.12.045, 77.12.047, 77.12.170,
5 77.12.177, 77.12.204, 77.12.264, 77.12.320, 77.12.325, 77.12.425,
6 77.12.455, 77.15.080, 77.15.090, 77.15.094, 77.15.096, 77.15.110,
7 77.15.150, 77.15.180, 77.15.210, 77.15.250, 77.15.260, 77.15.270,
8 77.15.290, 77.15.330, 77.15.340, 77.15.370, 77.15.380, 77.15.390,
9 77.15.400, 77.15.480, 77.15.510, 77.15.550, 77.15.600, 77.15.700,
10 77.15.730, 77.16.220, 77.32.010, 77.32.014, 77.32.250, 77.32.535,
11 77.44.070, 77.55.280, 77.55.290, 77.70.010, 77.70.150, 77.70.190, and
12 79A.60.100; reenacting and amending RCW 77.15.245; adding new sections
13 to chapter 77.65 RCW; adding new sections to chapter 77.15 RCW; adding
14 new sections to chapter 77.55 RCW; recodifying RCW 77.12.055,
15 77.65.470, 77.12.425, 77.16.220, and 77.32.220; and repealing RCW
16 77.12.030, 77.12.040, 77.12.105, 77.12.250, 77.12.295, 77.12.457,
17 77.12.724, and 77.32.420.

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

1 **Sec. 1.** RCW 4.24.350 and 1997 c 206 s 1 are each amended to read
2 as follows:

3 (1) In any action for damages, whether based on tort or contract or
4 otherwise, a claim or counterclaim for damages may be litigated in the
5 principal action for malicious prosecution on the ground that the
6 action was instituted with knowledge that the same was false, and
7 unfounded, malicious and without probable cause in the filing of such
8 action, or that the same was filed as a part of a conspiracy to misuse
9 judicial process by filing an action known to be false and unfounded.

10 (2) In any action, claim, or counterclaim brought by a judicial
11 officer, prosecuting authority, or law enforcement officer for
12 malicious prosecution arising out of the performance or purported
13 performance of the public duty of such officer, an arrest or seizure of
14 property need not be an element of the claim, nor do special damages
15 need to be proved. A judicial officer, prosecuting authority, or law
16 enforcement officer prevailing in such an action may be allowed an
17 amount up to one thousand dollars as liquidated damages, together with
18 a reasonable attorneys' fee, and other costs of suit. A government
19 entity which has provided legal services to the prevailing judicial
20 officer, prosecuting authority, or law enforcement officer has
21 reimbursement rights to any award for reasonable attorneys' fees and
22 other costs, but shall have no such rights to any liquidated damages
23 allowed.

24 (3) No action may be brought against an attorney under this section
25 solely because of that attorney's representation of a party in a
26 lawsuit.

27 (4) As used in this section:

28 (a) "Judicial officer" means a justice, judge, magistrate, or other
29 judicial officer of the state or a city, town, or county.

30 (b) "Prosecuting authority" means any officer or employee of the
31 state or a city, town, or county who is authorized by law to initiate
32 a criminal or civil proceeding on behalf of the public.

33 (c) "Law enforcement officer" means a member of the state patrol,
34 a sheriff or deputy sheriff, or a member of the police force of a city,
35 town, university, state college, or port district, or a (~~"wildlife
36 agent" or "ex officio wildlife agent"~~) fish and wildlife officer or ex
37 officio fish and wildlife officer as defined in RCW 77.08.010.

1 **Sec. 2.** RCW 43.70.185 and 1995 c 147 s 7 are each amended to read
2 as follows:

3 (1) The department may enter and inspect any property, lands, or
4 waters, of this state in or on which any marine species are located or
5 from which such species are harvested, whether recreationally or for
6 sale or barter, and any land or water of this state which may cause or
7 contribute to the pollution of areas in or on which such species are
8 harvested or processed. The department may take any reasonably
9 necessary samples to determine whether such species or any lot, batch,
10 or quantity of such species is safe for human consumption.

11 (2) If the department determines that any species or any lot,
12 batch, or other quantity of such species is unsafe for human
13 consumption because consumption is likely to cause actual harm or
14 because consumption presents a potential risk of substantial harm, the
15 department may, by order under chapter 34.05 RCW, prohibit or restrict
16 the commercial or recreational harvest or landing of any marine species
17 except the recreational harvest of shellfish as defined in chapter
18 69.30 RCW if taken from privately owned tidelands.

19 (3) It is unlawful to harvest any marine species in violation of a
20 departmental order prohibiting or restricting such harvest under this
21 section or to possess or sell any marine species so harvested.

22 (4) Any person who sells any marine species taken in violation of
23 this section is subject to the penalties provided in RCW 69.30.140 and
24 69.30.150. Any person who harvests or possesses marine species taken
25 in violation of this section is guilty of a civil infraction and is
26 subject to the penalties provided in RCW 69.30.150. Notwithstanding
27 this section, any person who harvests, possesses, sells, offers to
28 sell, culls, shucks, or packs shellfish is subject to the penalty
29 provisions of chapter 69.30 RCW. Charges shall not be brought against
30 a person under both chapter 69.30 RCW and this section in connection
31 with this same action, incident, or event.

32 (5) The criminal provisions of this section are subject to
33 enforcement by fish and wildlife (~~enforcement~~) officers or ex officio
34 fish and wildlife (~~enforcement patrol~~) officers as defined in RCW
35 (~~(75.08.011)~~) 77.08.010.

36 (6) As used in this section, marine species include all fish,
37 invertebrate or plant species which are found during any portion of the
38 life cycle of those species in the marine environment.

1 **Sec. 3.** RCW 46.09.200 and 1986 c 100 s 52 are each amended to read
2 as follows:

3 The provisions of this chapter shall be enforced by all persons
4 having the authority to enforce any of the laws of this state,
5 including, without limitation, officers of the state patrol, county
6 sheriffs and their deputies, all municipal law enforcement officers
7 within their respective jurisdictions, (~~state wildlife agents and~~
8 ~~deputy wildlife agents~~) fish and wildlife officers, state park
9 rangers, (~~state fisheries patrolmen~~) and those employees of the
10 department of natural resources designated by the commissioner of
11 public lands under RCW 43.30.310, 76.04.035, and 76.04.045.

12 **Sec. 4.** RCW 46.10.200 and 1980 c 78 s 131 are each amended to read
13 as follows:

14 The provisions of this chapter shall be enforced by all persons
15 having the authority to enforce any of the laws of this state,
16 including, without limitation, officers of the state patrol, county
17 sheriffs and their deputies, all municipal law enforcement officers
18 within their respective jurisdictions, fish and wildlife (~~agents~~)
19 officers, state park rangers, (~~state fisheries patrol officers~~) and
20 those employees of the department of natural resources designated by
21 the commissioner of public lands under RCW 43.30.310, as having police
22 powers to enforce the laws of this state.

23 **Sec. 5.** RCW 69.30.010 and 1995 c 147 s 1 are each amended to read
24 as follows:

25 When used in this chapter, the following terms shall have the
26 following meanings:

27 (1) "Shellfish" means all varieties of fresh and frozen oysters,
28 mussels, clams, and scallops, either shucked or in the shell, and any
29 fresh or frozen edible products thereof.

30 (2) "Sale" means to sell, offer for sale, barter, trade, deliver,
31 consign, hold for sale, consignment, barter, trade, or delivery, and/or
32 possess with intent to sell or dispose of in any commercial manner.

33 (3) "Shellfish growing areas" means the lands and waters in and
34 upon which shellfish are grown for harvesting in commercial quantity or
35 for sale for human consumption.

36 (4) "Establishment" means the buildings, together with the
37 necessary equipment and appurtenances, used for the storage, culling,

1 shucking, packing and/or shipping of shellfish in commercial quantity
2 or for sale for human consumption.

3 (5) "Person" means any individual, partnership, firm, company,
4 corporation, association, or the authorized agents of any such
5 entities.

6 (6) "Department" means the state department of health.

7 (7) "Secretary" means the secretary of health or his or her
8 authorized representatives.

9 (8) "Commercial quantity" means any quantity exceeding: (a) Forty
10 pounds of mussels; (b) one hundred oysters; (c) fourteen horse clams;
11 (d) six geoducks; (e) fifty pounds of hard or soft shell clams; or (f)
12 fifty pounds of scallops. The poundage in this subsection (8)
13 constitutes weight with the shell.

14 (9) "Fish and wildlife ~~((enforcement))~~ officer" means a ~~((fisheries
15 patrol officer or an ex officio fisheries patrol))~~ fish and wildlife
16 officer as defined in RCW ~~((75.08.011 (4) and (5) or a wildlife agent
17 or an ex officio wildlife agent as defined in RCW 77.08.010 (5) and
18 (6))~~) 77.08.010.

19 (10) "Ex officio fish and wildlife officer" means an ex officio
20 fish and wildlife officer as defined in RCW 77.08.010.

21 **Sec. 6.** RCW 69.30.110 and 1995 c 147 s 4 are each amended to read
22 as follows:

23 It is unlawful for any person to possess a commercial quantity of
24 shellfish or to sell or offer to sell shellfish in the state which have
25 not been grown, shucked, packed, or shipped in accordance with the
26 provisions of this chapter. Failure of a shellfish grower to display
27 immediately a certificate of approval issued under RCW 69.30.050 to an
28 authorized representative of the department, a fish and wildlife
29 ~~((enforcement))~~ officer, or an ex officio fish and wildlife
30 ~~((enforcement))~~ officer subjects the grower to the penalty provisions
31 of this chapter, as well as immediate seizure of the shellfish by the
32 representative or officer.

33 Failure of a shellfish processor to display a certificate of
34 approval issued under RCW 69.30.060 to an authorized representative of
35 the department, a fish and wildlife ~~((enforcement))~~ officer, or an ex
36 officio fish and wildlife ~~((enforcement))~~ officer subjects the
37 processor to the penalty provisions of this chapter, as well as
38 immediate seizure of the shellfish by the representative or officer.

1 Shellfish seized under this section shall be subject to prompt
2 disposal by the representative or officer and may not be used for human
3 consumption. The state board of health shall develop by rule
4 procedures for the disposal of the seized shellfish.

5 **Sec. 7.** RCW 69.30.140 and 1995 c 147 s 6 are each amended to read
6 as follows:

7 Any person convicted of violating any of the provisions of this
8 chapter shall be guilty of a gross misdemeanor. A conviction is an
9 unvacated forfeiture of bail or collateral deposited to secure the
10 defendant's appearance in court, the payment of a fine, a plea of
11 guilty, or a finding of guilt on a violation of this chapter,
12 regardless of whether imposition of sentence is deferred or the penalty
13 is suspended, and shall be treated as a ~~((violation))~~ conviction for
14 purposes of license ~~((forfeiture))~~ revocation and suspension of
15 privileges under RCW ~~((75.10.120))~~ 77.15.700(5).

16 **Sec. 8.** RCW 70.93.050 and 1980 c 78 s 132 are each amended to read
17 as follows:

18 The director shall designate trained employees of the department to
19 be vested with police powers to enforce and administer the provisions
20 of this chapter and all rules ~~((and regulations))~~ adopted thereunder.
21 The director shall also have authority to contract with other state and
22 local governmental agencies having law enforcement capabilities for
23 services and personnel reasonably necessary to carry out the
24 enforcement provisions of this chapter. In addition, state patrol
25 officers, fish and wildlife ~~((agents))~~ officers, fire wardens, deputy
26 fire wardens and forest rangers, sheriffs and marshals and their
27 deputies, and police officers, and those employees of the department of
28 ecology and the parks and recreation commission vested with police
29 powers all shall enforce the provisions of this chapter and all rules
30 ~~((and regulations))~~ adopted thereunder and are hereby empowered to
31 issue citations to and/or arrest without warrant, persons violating any
32 provision of this chapter or any of the rules ~~((and regulations))~~
33 adopted hereunder. All of the foregoing enforcement officers may serve
34 and execute all warrants, citations, and other process issued by the
35 courts in enforcing the provisions of this chapter and rules ~~((and~~
36 ~~regulations))~~ adopted hereunder. In addition, mailing by registered
37 mail of such warrant, citation, or other process to his or her last

1 known place of residence shall be deemed as personal service upon the
2 person charged.

3 **Sec. 9.** RCW 76.04.045 and 1986 c 100 s 5 are each amended to read
4 as follows:

5 (1) All Washington state patrol officers, (~~wildlife agents,~~
6 ~~fisheries patrol~~) fish and wildlife officers, deputy state fire
7 marshals, and state park rangers, while in their respective
8 jurisdictions, shall be ex officio rangers.

9 (2) Employees of the United States forest service, when recommended
10 by their forest supervisor, and citizens of the state advantageously
11 located may, at the discretion of the department, be commissioned as
12 rangers and vested with the certain powers and duties of wardens as
13 specified in this chapter and as directed by the department.

14 (3) Rangers shall receive no compensation for their services except
15 when employed in cooperation with the state and under the provisions of
16 this chapter and shall not create any indebtedness or incur any
17 liability on behalf of the state: PROVIDED, That rangers actually
18 engaged in extinguishing or preventing the spread of fire on forest
19 land or elsewhere that may endanger forest land shall, when their
20 accounts for such service have been approved by the department, be
21 entitled to receive compensation for such services at a rate to be
22 fixed by the department.

23 (4) The department may cancel the commission of any ranger or
24 authority granted to any ex officio ranger who may be incompetent or
25 unwilling to discharge properly the duties of the office.

26 **Sec. 10.** RCW 77.08.010 and 2000 c 107 s 207 are each amended to
27 read as follows:

28 As used in this title or rules adopted under this title, unless the
29 context clearly requires otherwise:

30 (1) "Director" means the director of fish and wildlife.

31 (2) "Department" means the department of fish and wildlife.

32 (3) "Commission" means the state fish and wildlife commission.

33 (4) "Person" means and includes an individual; a corporation; a
34 public or private entity or organization; a local, state, or federal
35 agency; all business organizations, including corporations and
36 partnerships; or a group of two or more individuals acting with a

1 common purpose whether acting in an individual, representative, or
2 official capacity.

3 (5) "Fish and wildlife officer" means a person appointed and
4 commissioned by the director, with authority to enforce this title and
5 rules adopted pursuant to this title, and other statutes as prescribed
6 by the legislature. Fish and wildlife officer includes a person
7 commissioned before June 11, 1998, as a wildlife agent or a fisheries
8 patrol officer.

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

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

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

22 (9) "To fish," "to harvest," and "to take," and their derivatives
23 means an effort to kill, injure, harass, or catch a fish or shellfish.

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

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

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

3 (13) "Closed waters" means all or part of a lake, river, stream, or
4 other body of water, where fishing (~~for game fish~~) or harvesting is
5 prohibited.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 (28) "Fish" includes all species classified as game fish or food
11 fish by statute or rule, as well as all fin fish not currently
12 classified as food fish or game fish if such species exist in state
13 waters. The term "fish" includes all stages of development and the
14 bodily parts of fish species.

15 (29) "Raffle" means an activity in which tickets bearing an
16 individual number are sold for not more than twenty-five dollars each
17 and in which a permit or permits are awarded to hunt or for access to
18 hunt big game animals or wild turkeys on the basis of a drawing from
19 the tickets by the person or persons conducting the raffle.

20 (30) "Youth" means a person fifteen years old for fishing and under
21 sixteen years old for hunting.

22 (31) "Senior" means a person seventy years old or older.

23 (32) "License year" means the period of time for which a
24 recreational license is valid. The license year begins April 1st, and
25 ends March 31st.

26 (33) "Saltwater" means those marine waters seaward of river mouths.

27 (34) "Freshwater" means all waters not defined as saltwater
28 including, but not limited to, rivers upstream of the river mouth,
29 lakes, ponds, and reservoirs.

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

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

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

1 (38) "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 (39) "Nonresident" means a person who has not fulfilled the
7 qualifications of a resident.

8 (40) "Shellfish" means those species of marine and freshwater
9 invertebrates that have been classified and that shall not be taken
10 except as authorized by rule of the commission. The term "shellfish"
11 includes all stages of development and the bodily parts of shellfish
12 species.

13 (41) "Commercial" means related to or connected with buying,
14 selling, or bartering. (~~Fishing for food fish or shellfish with gear
15 unlawful for fishing for personal use, or possessing food fish or
16 shellfish in excess of the limits permitted for personal use are
17 commercial activities.~~)

18 (42) "To process" and its derivatives mean preparing or preserving
19 (~~food~~) fish, wildlife, or shellfish.

20 (43) "Personal use" means for the private use of the individual
21 taking the (~~food~~) fish or shellfish and not for sale or barter.

22 (44) "Angling gear" means a line attached to a rod and reel capable
23 of being held in hand while landing the fish or a hand-held line
24 operated without rod or reel.

25 (45) "Fishery" means the taking of one or more particular species
26 of (~~food~~) fish or shellfish with particular gear in a particular
27 geographical area.

28 (46) "Limited-entry license" means a license subject to a license
29 limitation program established in chapter 77.70 RCW.

30 (47) "Seaweed" means marine aquatic plant species that are
31 dependent upon the marine aquatic or tidal environment, and exist in
32 either an attached or free floating form, and includes but is not
33 limited to marine aquatic plants in the classes Chlorophyta,
34 Phaeophyta, and Rhodophyta.

35 (48) "Trafficking" means offering, attempting to engage, or
36 engaging in sale, barter, or purchase of fish, shellfish, wildlife, or
37 deleterious exotic wildlife.

1 **Sec. 11.** RCW 77.12.039 and 2000 c 107 s 5 are each amended to read
2 as follows:

3 The director may accept money or real property from persons under
4 conditions requiring the use of the property or money for the
5 protection, rehabilitation, preservation, or conservation of the state
6 wildlife, (~~food~~) fish, and shellfish resources, or in settlement of
7 claims for damages to wildlife, (~~food~~) fish, and shellfish resources.
8 The director shall only accept real property useful for the protection,
9 rehabilitation, preservation, or conservation of (~~these fisheries~~)
10 fish, shellfish, and wildlife resources.

11 **Sec. 12.** RCW 77.12.043 and 1985 c 458 s 7 are each amended to read
12 as follows:

13 (1) The director may enter into contracts and agreements with a
14 person to secure (~~food~~) fish or shellfish or for the construction,
15 operation, and maintenance of facilities for the propagation of
16 (~~food~~) fish or shellfish.

17 (2) The director may enter into contracts and agreements to procure
18 from private aquaculturists (~~food~~) fish or shellfish with which to
19 stock state waters.

20 **Sec. 13.** RCW 77.12.045 and 1995 1st sp.s. c 2 s 10 are each
21 amended to read as follows:

22 Consistent with federal law, the commission's authority extends to
23 all areas and waters within the territorial boundaries of the state, to
24 the offshore waters, and to the concurrent waters of the Columbia
25 river.

26 Consistent with federal law, the commission's authority extends to
27 fishing in offshore waters by residents of this state.

28 The commission may adopt rules consistent with the regulations
29 adopted by the United States department of commerce for the offshore
30 waters. The commission may adopt rules consistent with the
31 recommendations or regulations of the Pacific marine fisheries
32 commission, Columbia river compact, the Pacific salmon commission as
33 provided in chapter (~~75.40~~) 77.75 RCW, or the international Pacific
34 halibut commission.

35 **Sec. 14.** RCW 77.12.047 and 2000 c 107 s 7 are each amended to read
36 as follows:

1 (1) The commission may adopt, amend, or repeal rules as follows:

2 (a) Specifying the times when the taking of wildlife, ~~((food))~~
3 fish, or shellfish is lawful or unlawful.

4 (b) Specifying the areas and waters in which the taking and
5 possession of wildlife, ~~((food))~~ fish, or shellfish is lawful or
6 unlawful.

7 (c) Specifying and defining the gear, appliances, or other
8 equipment and methods that may be used to take wildlife, ~~((food))~~ fish,
9 or shellfish, and specifying the times, places, and manner in which the
10 equipment may be used or possessed.

11 (d) Regulating the importation, transportation, possession,
12 disposal, landing, and sale of wildlife, ~~((food))~~ fish, ~~((or))~~
13 shellfish, or seaweed within the state, whether acquired within or
14 without the state.

15 (e) Regulating the prevention and suppression of diseases and pests
16 affecting wildlife, ~~((food))~~ fish, or shellfish.

17 (f) Regulating the size, sex, species, and quantities of wildlife,
18 ~~((food))~~ fish, or shellfish that may be taken, possessed, sold, or
19 disposed of.

20 (g) Specifying the statistical and biological reports required from
21 ~~((fishermen))~~ fishers, dealers, boathouses, or processors of wildlife,
22 ~~((food))~~ fish, or shellfish.

23 (h) Classifying species of marine and freshwater life as food fish
24 or shellfish.

25 (i) Classifying the species of wildlife, ~~((food))~~ fish, and
26 shellfish that may be used for purposes other than human consumption.

27 (j) Regulating the taking, sale, possession, and distribution of
28 wildlife, fish, shellfish, or deleterious exotic wildlife.

29 (k) Establishing game reserves and closed areas where hunting for
30 wild animals or wild birds may be prohibited.

31 (l) Regulating the harvesting of fish, shellfish, and wildlife in
32 the federal exclusive economic zone by vessels or individuals
33 registered or licensed under the laws of this state.

34 (m) Authorizing issuance of permits to release, plant, or place
35 fish or shellfish in state waters.

36 (n) Governing the possession of fish, shellfish, or wildlife so
37 that the size, species, or sex can be determined visually in the field
38 or while being transported.

1 (o) Other rules necessary to carry out this title and the purposes
2 and duties of the department.

3 (2) Subsections (1)(a), (b), (c), (d), and (f) of this section do
4 not apply to private tideland owners and lessees and the immediate
5 family members of the owners or lessees of state tidelands, when they
6 take or possess oysters, clams, cockles, borers, or mussels, excluding
7 razor clams, produced on their own private tidelands or their leased
8 state tidelands for personal use.

9 "Immediate family member" for the purposes of this section means a
10 spouse, brother, sister, grandparent, parent, child, or grandchild.

11 (3) Except for subsection (1)(g) of this section, this section does
12 not apply to private sector cultured aquatic products as defined in RCW
13 15.85.020. Subsection (1)(g) of this section does apply to such
14 products.

15 **Sec. 15.** RCW 77.12.170 and 2000 c 107 s 216 are each amended to
16 read as follows:

17 (1) There is established in the state treasury the state wildlife
18 fund which consists of moneys received from:

19 (a) Rentals or concessions of the department;

20 (b) The sale of real or personal property held for department
21 purposes;

22 (c) The sale of licenses, permits, tags, and stamps~~((, and~~
23 ~~punchcards))~~ required by ~~((this title))~~ chapter 77.32 RCW and section
24 56 of this act, except annual resident adult saltwater and all
25 shellfish licenses, which shall be deposited into the state general
26 fund;

27 (d) Fees for informational materials published by the department;

28 (e) Fees for personalized vehicle license plates as provided in
29 chapter 46.16 RCW;

30 (f) Articles or wildlife sold by the director under this title;

31 (g) Compensation for damage to department property or wildlife
32 losses or contributions, gifts, or grants received under RCW 77.12.320
33 or 77.32.380;

34 (h) Excise tax on anadromous game fish collected under chapter
35 82.27 RCW;

36 (i) The sale of personal property seized by the department for
37 ~~((food))~~ fish, shellfish, or wildlife violations; and

1 (j) The department's share of revenues from auctions and raffles
2 authorized by the commission.

3 (2) State and county officers receiving any moneys listed in
4 subsection (1) of this section shall deposit them in the state treasury
5 to be credited to the state wildlife fund.

6 **Sec. 16.** RCW 77.12.177 and 2000 c 107 s 10 are each amended to
7 read as follows:

8 (1) Except as provided in this title, state and county officers
9 receiving the following moneys shall deposit them in the state general
10 fund:

11 (a) The sale of commercial licenses required under this title,
12 except for licenses issued under (~~chapter 77.32 RCW~~) section 56 of
13 this act; and

14 (b) Moneys received for damages to food fish or shellfish.

15 (2) The director shall make weekly remittances to the state
16 treasurer of moneys collected by the department.

17 (3) All fines and forfeitures collected or assessed by a district
18 court for a violation of this title or rule of the department shall be
19 remitted as provided in chapter 3.62 RCW.

20 (4) Proceeds from the sale of food fish or shellfish taken in test
21 fishing conducted by the department, to the extent that these proceeds
22 exceed the estimates in the budget approved by the legislature, may be
23 allocated as unanticipated receipts under RCW 43.79.270 to reimburse
24 the department for unanticipated costs for test fishing operations in
25 excess of the allowance in the budget approved by the legislature.

26 (5) Proceeds from the sale of salmon carcasses and salmon eggs from
27 state general funded hatcheries by the department of general
28 administration shall be deposited in the regional fisheries enhancement
29 group account established in RCW 77.95.090.

30 (6) Moneys received by the commission under RCW 77.12.039, to the
31 extent these moneys exceed estimates in the budget approved by the
32 legislature, may be allocated as unanticipated receipts under RCW
33 43.79.270. Allocations under this subsection shall be made only for
34 the specific purpose for which the moneys were received, unless the
35 moneys were received in settlement of a claim for damages to food fish
36 or shellfish, in which case the moneys may be expended for the
37 conservation of these resources.

1 (7) Proceeds from the sale of herring spawn on kelp fishery
2 licenses by the department, to the extent those proceeds exceed
3 estimates in the budget approved by the legislature, may be allocated
4 as unanticipated receipts under RCW 43.79.270. Allocations under this
5 subsection shall be made only for herring management, enhancement, and
6 enforcement.

7 **Sec. 17.** RCW 77.12.204 and 2000 c 107 s 217 are each amended to
8 read as follows:

9 The department of fish and wildlife shall implement practices
10 necessary to meet the standards developed under RCW 79.01.295 on
11 agency-owned and managed agricultural and grazing lands. The standards
12 may be modified on a site-specific basis as necessary and as determined
13 by the department of fish and wildlife(~~(, for species that these~~
14 ~~agencies respectively manage,)~~) to achieve the goals established under
15 RCW 79.01.295(1). Existing lessees shall be provided an opportunity to
16 participate in any site-specific field review. Department agricultural
17 and grazing leases issued after December 31, 1994, shall be subject to
18 practices to achieve the standards that meet those developed pursuant
19 to RCW 79.01.295.

20 This section shall in no way prevent the department of fish and
21 wildlife from managing its lands according to the provisions of RCW
22 (~~(75.08.012)~~) 77.04.012, 77.12.210, or rules adopted pursuant to this
23 chapter.

24 **Sec. 18.** RCW 77.12.264 and 2000 c 107 s 9 are each amended to read
25 as follows:

26 The director shall relieve from active duty fish and wildlife
27 officers who are injured in the performance of their official duties to
28 such an extent as to be incapable of active service. While relieved
29 from active duty, the employees shall receive one-half of their salary
30 less any compensation received through the provisions of RCW 41.40.200,
31 41.40.220, and (~~(75.08.206)~~) 77.12.262.

32 **Sec. 19.** RCW 77.12.320 and 1987 c 506 s 41 are each amended to
33 read as follows:

34 (1) The commission may make agreements with persons, political
35 subdivisions of this state, or the United States or its agencies or
36 instrumentalities, regarding fish, shellfish, and wildlife-oriented

1 recreation and the propagation, protection, conservation, and control
2 of fish, shellfish, and wildlife.

3 (2) The director may make written agreements with the owners or
4 lessees of real or personal property to provide for the use of the
5 property for fish, shellfish, and wildlife-oriented recreation. The
6 director may adopt rules governing the conduct of persons in or on the
7 real property.

8 (3) The director may accept compensation for fish, shellfish, and
9 wildlife losses or gifts or grants of personal property for use by the
10 department.

11 **Sec. 20.** RCW 77.12.325 and 1980 c 78 s 52 are each amended to read
12 as follows:

13 The commission may cooperate with the Oregon fish and wildlife
14 commission in the adoption of rules to ((~~assure~~)) ensure an annual
15 yield of fish, shellfish, and wildlife on the Columbia river and to
16 prevent the taking of fish, shellfish, and wildlife at places or times
17 that might endanger fish, shellfish, and wildlife.

18 **Sec. 21.** RCW 77.12.425 and 1980 c 78 s 90 are each amended to read
19 as follows:

20 The director may authorize removal, relocation, reconstruction, or
21 other modification of an inadequate fishway or fish protective device
22 required by RCW ((~~77.16.210 and~~)) 77.16.220 (as recodified by this act)
23 which device was in existence on September 1, 1963, without cost to the
24 owner for materials and labor. The modification may not materially
25 alter the amount of water flowing through the fishway or fish
26 protective device. Following modification, the fishway or fish
27 protective device shall be maintained at the expense of the person or
28 governmental agency owning the obstruction or water diversion device.

29 **Sec. 22.** RCW 77.12.455 and 1995 1st sp.s. c 2 s 16 are each
30 amended to read as follows:

31 The commission may prohibit the introduction, transportation or
32 transplanting of ((~~food~~)) fish, shellfish, organisms, material, or
33 other equipment which in the commission's judgment may transmit any
34 disease or pests affecting ((~~food~~)) fish or shellfish.

1 **Sec. 23.** RCW 77.15.080 and 2000 c 107 s 233 are each amended to
2 read as follows:

3 Based upon articulable facts that a person is engaged in fishing,
4 harvesting, or hunting activities, fish and wildlife officers have the
5 authority to temporarily stop the person and check for valid licenses,
6 tags, permits, stamps, or catch record cards, and to inspect all fish,
7 shellfish, seaweed, and wildlife in possession as well as the equipment
8 being used to ensure compliance with the requirements of this title,
9 and may request the person to write his or her signature for comparison
10 with the signature on the license. Failure to comply with the request
11 is prima facie evidence that the person is not the person named on the
12 license.

13 **Sec. 24.** RCW 77.15.090 and 2000 c 107 s 234 are each amended to
14 read as follows:

15 On a showing of probable cause that there has been a violation of
16 any fish, seaweed, shellfish, or wildlife law of the state of
17 Washington, or upon a showing of probable cause to believe that
18 evidence of such violation may be found at a place, a court shall issue
19 a search warrant or arrest warrant. Fish and wildlife officers may
20 execute any such arrest or search warrant reasonably necessary to their
21 duties under this title and may seize fish, seaweed, shellfish, and
22 wildlife or any evidence of a crime and the fruits or instrumentalities
23 of a crime as provided by warrant. The court may have a building,
24 enclosure, vehicle, vessel, container, or receptacle opened or entered
25 and the contents examined.

26 **Sec. 25.** RCW 77.15.094 and 2000 c 107 s 214 are each amended to
27 read as follows:

28 Fish and wildlife officers and ex officio fish and wildlife
29 officers may make a reasonable search without warrant of a vessel,
30 conveyances, vehicles, containers, packages, or other receptacles for
31 fish, seaweed, shellfish, and wildlife which they have reason to
32 believe contain evidence of a violation of law or rules adopted
33 pursuant to this title and seize evidence as needed for law
34 enforcement. This authority does not extend to quarters in a boat,
35 building, or other property used exclusively as a private domicile,
36 does not extend to transitory residences in which a person has a
37 reasonable expectation of privacy, and does not allow search and

1 seizure without a warrant if the thing or place is protected from
2 search without warrant within the meaning of Article I, section 7 of
3 the state Constitution. Seizure of property as evidence of a crime
4 does not preclude seizure of the property for forfeiture as authorized
5 by law.

6 **Sec. 26.** RCW 77.15.096 and 1998 c 190 s 116 are each amended to
7 read as follows:

8 Fish and wildlife officers may inspect without warrant at
9 reasonable times and in a reasonable manner the premises, containers,
10 fishing equipment, fish, seaweed, shellfish, and wildlife, and records
11 required by the department of any commercial fisher or wholesale dealer
12 or fish buyer. Fish and wildlife officers may similarly inspect
13 without warrant the premises, containers, fishing equipment, fish,
14 shellfish, and wildlife, and records required by the department of any
15 shipping agent or other person placing or attempting to place fish,
16 shellfish, or wildlife into interstate commerce, any cold storage plant
17 that the department has probable cause to believe contains fish,
18 shellfish, or wildlife, or of any taxidermist or fur buyer. Fish and
19 wildlife officers may inspect without warrant the records required by
20 the department of any retail outlet selling fish, shellfish, or
21 wildlife ((~~or both~~)), and, if the officers have probable cause to
22 believe a violation of this title or rules of the commission has
23 occurred, they may inspect without warrant the premises, containers,
24 and fish, shellfish, and wildlife of any retail outlet selling fish,
25 shellfish, or wildlife ((~~or both~~)).

26 **Sec. 27.** RCW 77.15.110 and 1998 c 190 s 8 are each amended to read
27 as follows:

28 (1) For purposes of this chapter, a person acts for commercial
29 purposes if the person:

30 (a) Acts with intent to sell, attempted to sell, sold, bartered,
31 attempted to purchase, or purchased fish, seaweed, shellfish, or
32 wildlife;

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

34 (c) Exceeds the bag or possession limits for personal use by taking
35 or possessing more than three times the amount of fish, seaweed,
36 shellfish, or wildlife allowed;

1 (d) Delivers or attempts to deliver fish, seaweed, shellfish, or
2 wildlife to a person who sells or resells fish, seaweed, shellfish, or
3 wildlife including any licensed or unlicensed wholesaler; (~~or~~)

4 (e) Takes fish or shellfish using a vessel designated on a
5 commercial fishery license and gear not authorized in a personal use
6 fishery;

7 (f) Sells or deals in raw furs; or

8 (g) Performs taxidermy service on fish, shellfish, or wildlife
9 belonging to another person for a fee or receipt of goods or services.

10 (2) For purposes of this chapter, the value of any fish, shellfish,
11 or wildlife may be proved based on evidence of legal or illegal sales
12 involving the person charged or any other person, of offers to sell or
13 solicitation of offers to sell by the person charged or by any other
14 person, or of any market price for the fish, shellfish, or wildlife
15 including market price for farm-raised game animals. The value
16 assigned to specific fish, shellfish, or wildlife by RCW (~~77.21.070~~)
17 77.15.420 may be presumed to be the value of such fish, shellfish, or
18 wildlife. It is not relevant to proof of value that the person charged
19 misrepresented that the fish, shellfish, or wildlife was taken in
20 compliance with law if the fish, shellfish, or wildlife was unlawfully
21 taken and had no lawful market value.

22 **Sec. 28.** RCW 77.15.150 and 1998 c 190 s 16 are each amended to
23 read as follows:

24 (1) A person is guilty of unlawful use of poison or explosives if:

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

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

32 (2) Unlawful use of poison or explosives is a gross misdemeanor.

33 **Sec. 29.** RCW 77.15.180 and 1998 c 190 s 22 are each amended to
34 read as follows:

35 (1) A person is guilty of unlawful interference with fishing or
36 hunting gear in the second degree if the person:

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

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

5 (c) Interferes with recreational gear used to take fish or
6 shellfish.

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

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

11 (a) Takes or releases (~~feed~~) fish or shellfish from commercial
12 fishing gear without the owner's permission; or

13 (b) Intentionally destroys or interferes with commercial fishing
14 gear.

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

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

20 **Sec. 30.** RCW 77.15.210 and 1998 c 190 s 24 are each amended to
21 read as follows:

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

24 (a) Harasses, drives, or disturbs fish, shellfish, or wildlife with
25 the intent 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, shellfish, or wildlife or lawful predator
28 control with the intent of disrupting lawful pursuit or taking thereof.

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

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

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

35 (b) Preventing or attempting to prevent unauthorized trespass on
36 private property.

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

1 **Sec. 31.** RCW 77.15.245 and 2000 c 248 s 1 and 2000 c 107 s 260 are
2 each reenacted and amended to read as follows:

3 (1) Notwithstanding the provisions of RCW 77.12.240, 77.36.020,
4 77.36.030, or any other provisions of law, it is unlawful to take,
5 hunt, or attract black bear with the aid of bait.

6 (a) Nothing in this subsection shall be construed to prohibit the
7 killing of black bear with the aid of bait by employees or agents of
8 county, state, or federal agencies while acting in their official
9 capacities for the purpose of protecting livestock, domestic animals,
10 private property, or the public safety.

11 (b) Nothing in this subsection shall be construed to prevent the
12 establishment and operation of feeding stations for black bear in order
13 to prevent damage to commercial timberland.

14 (c) Nothing in this subsection shall be construed to prohibit the
15 director from issuing a permit or memorandum of understanding to a
16 public agency, university, or scientific or educational institution for
17 the use of bait to attract black bear for scientific purposes.

18 (d) As used in this subsection, "bait" means a substance placed,
19 exposed, deposited, distributed, scattered, or otherwise used for the
20 purpose of attracting black bears to an area where one or more persons
21 hunt or intend to hunt them.

22 (2) Notwithstanding RCW 77.12.240, 77.36.020, 77.36.030, or any
23 other provisions of law, it is unlawful to hunt or pursue black bear,
24 cougar, bobcat, or lynx with the aid of a dog or dogs.

25 (a) Nothing in this subsection shall be construed to prohibit the
26 killing of black bear, cougar, bobcat, or lynx with the aid of a dog or
27 dogs by employees or agents of county, state, or federal agencies while
28 acting in their official capacities for the purpose of protecting
29 livestock, domestic animals, private property, or the public safety.
30 A dog or dogs may be used by the owner or tenant of real property
31 consistent with a permit issued and conditioned by the director.

32 (b) Nothing in this subsection shall be construed to prohibit the
33 director from issuing a permit or memorandum of understanding to a
34 public agency, university, or scientific or educational institution for
35 the use of a dog or dogs for the pursuit, capture and relocation, of
36 black bear, cougar, bobcat, or lynx for scientific purposes.

37 (c) Nothing in this subsection shall be construed to prohibit the
38 director from issuing a permit or memorandum of understanding to a
39 public agency, university, or scientific or educational institution for

1 the use of a dog or dogs for the killing of black bear, cougar, or
2 bobcat, for the protection of a state and/or federally listed
3 threatened or endangered species.

4 (3) Notwithstanding subsection (2) of this section, the commission
5 shall authorize the use of dogs only in selected areas within a game
6 management unit to address a public safety need presented by one or
7 more cougar. This authority may only be exercised after the commission
8 has determined that no other practical alternative to the use of dogs
9 exists, and after the commission has adopted rules describing the
10 conditions in which dogs may be used. Conditions that may warrant the
11 use of dogs within a game management unit include, but are not limited
12 to, confirmed cougar/human safety incidents, confirmed cougar/livestock
13 and cougar/pet depredations, and the number of cougar capture attempts
14 and relocations.

15 (4) A person who violates subsection (1) or (2) of this section is
16 guilty of a gross misdemeanor. In addition to appropriate criminal
17 penalties, the ~~((director))~~ department shall revoke the hunting license
18 of a person who violates subsection (1) or (2) of this section and ~~((a~~
19 ~~hunting license shall not be issued))~~ order the suspension of wildlife
20 hunting privileges for a period of five years following the revocation.
21 Following a subsequent violation of subsection (1) or (2) of this
22 section by the same person, a hunting license shall not be issued to
23 the person at any time.

24 **Sec. 32.** RCW 77.15.250 and 1998 c 190 s 31 are each amended to
25 read as follows:

26 (1)(a) A person is guilty of unlawfully releasing, planting, or
27 placing fish, shellfish, or wildlife if the person knowingly releases,
28 plants, or places live fish, shellfish, wildlife, or aquatic plants
29 within the state, ~~((except for))~~ and the fish, shellfish, or wildlife
30 have not been classified as deleterious wildlife. This subsection does
31 not apply to a release of game fish into private waters for which a
32 game fish stocking permit has been obtained, or the planting of
33 ~~((food))~~ fish or shellfish by permit of the commission.

34 (b) A violation of this subsection is a gross misdemeanor. In
35 addition, the department shall order the person to pay all costs the
36 department incurred in capturing, killing, or controlling the fish,
37 shellfish, aquatic plants, or wildlife released or its progeny. This
38 does not affect the existing authority of the department to bring a

1 separate civil action to recover costs of capturing, killing,
2 controlling the fish, shellfish, aquatic plants, or wildlife released
3 or their progeny, or restoration of habitat necessitated by the
4 unlawful release.

5 (2)(a) A person is guilty of unlawful release of deleterious exotic
6 wildlife if the person knowingly releases, plants, or places live fish,
7 shellfish, or wildlife within the state and such fish, shellfish, or
8 wildlife has been classified as deleterious exotic wildlife by rule of
9 the commission.

10 (b) A violation of this subsection is a class C felony. In
11 addition, the department shall also order the person to pay all costs
12 the department incurred in capturing, killing, or controlling the fish,
13 shellfish, or wildlife released or its progeny. This does not affect
14 the existing authority of the department to bring a separate civil
15 action to recover costs of capturing, killing, controlling the fish,
16 shellfish, or wildlife released or their progeny, or restoration of
17 habitat necessitated by the unlawful release.

18 **Sec. 33.** RCW 77.15.260 and 1998 c 190 s 42 are each amended to
19 read as follows:

20 (1) A person is guilty of unlawful trafficking in fish, shellfish,
21 or wildlife in the second degree if the person traffics in fish,
22 shellfish, or wildlife with a wholesale value of less than two hundred
23 fifty dollars and:

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

27 (b) The fish, shellfish, or wildlife is unclassified and the
28 trafficking violates any rule of the department.

29 (2) A person is guilty of unlawful trafficking in fish, shellfish,
30 or wildlife in the first degree if the person commits the act described
31 by subsection (1) of this section and:

32 (a) The fish, shellfish, or wildlife has a value of two hundred
33 fifty dollars or more; or

34 (b) The fish, shellfish, or wildlife is designated as an endangered
35 species or deleterious exotic wildlife and such trafficking is not
36 authorized by any statute or rule of the department.

37 (3)(a) Unlawful trafficking in fish, shellfish, or wildlife in the
38 second degree is a gross misdemeanor.

1 (b) Unlawful trafficking in fish, shellfish, or wildlife in the
2 first degree is a class C felony.

3 **Sec. 34.** RCW 77.15.270 and 1998 c 190 s 46 are each amended to
4 read as follows:

5 (1) A person is guilty of providing false information regarding
6 fish, shellfish, or wildlife if the person knowingly provides false or
7 misleading information required by any statute or rule to be provided
8 to the department regarding the taking, delivery, possession,
9 transportation, sale, transfer, or any other use of fish, shellfish, or
10 wildlife.

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

13 **Sec. 35.** RCW 77.15.290 and 1998 c 190 s 48 are each amended to
14 read as follows:

15 (1) A person is guilty of unlawful transportation of fish or
16 wildlife in the second degree if the person:

17 (a) Knowingly imports, moves within the state, or exports fish,
18 shellfish, or wildlife in violation of any rule of the commission or
19 the director governing the transportation or movement of fish,
20 shellfish, or wildlife and the transportation does not involve big
21 game, endangered fish or wildlife, deleterious exotic wildlife, or
22 fish, shellfish, or wildlife having a value greater than two hundred
23 fifty dollars; or

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

26 (2) A person is guilty of unlawful transportation of fish or
27 wildlife in the first degree if the person:

28 (a) Knowingly imports, moves within the state, or exports fish,
29 shellfish, or wildlife in violation of any rule of the commission or
30 the director governing the transportation or movement of fish,
31 shellfish, or wildlife and the transportation involves big game,
32 endangered fish or wildlife, deleterious exotic wildlife, or fish,
33 shellfish, or wildlife with a value of two hundred fifty dollars or
34 more; or

35 (b) Knowingly transports shellfish, shellstock, or equipment used
36 in commercial culturing, taking, handling, or processing shellfish
37 without a permit required by authority of this title.

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

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

5 **Sec. 36.** RCW 77.15.330 and 1998 c 190 s 56 are each amended to
6 read as follows:

7 (1) A person is guilty of unlawfully holding a hunting or fishing
8 contest if the person:

9 (a) Conducts, holds, or sponsors a hunting contest, a fishing
10 contest involving game fish, or a competitive field trial using live
11 wildlife without the permit required by RCW (~~77.32.211~~) 77.65.480; or

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

15 (2) Unlawfully holding a hunting or fishing contest is a
16 misdemeanor.

17 **Sec. 37.** RCW 77.15.340 and 1998 c 190 s 57 are each amended to
18 read as follows:

19 (1) A person is guilty of unlawful operation of a game farm if the
20 person (a) operates a game farm without the license required by RCW
21 (~~77.32.211~~) 77.65.480; or (b) violates any rule of the commission or
22 the director applicable to game farms under RCW 77.12.570, 77.12.580,
23 and 77.12.590.

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

25 **Sec. 38.** RCW 77.15.370 and 1998 c 190 s 19 are each amended to
26 read as follows:

27 (1) A person is guilty of unlawful recreational fishing in the
28 first degree if:

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

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

35 (c) The person shoots, gaffs, snags, snares, spears, dipnets, or
36 stones fish or shellfish in state waters, or possesses fish or

1 shellfish taken by such means, unless such means are authorized by
2 express rule of the commission or director.

3 (2) Unlawful recreational fishing in the first degree is a gross
4 misdemeanor.

5 **Sec. 39.** RCW 77.15.380 and 2000 c 107 s 244 are each amended to
6 read as follows:

7 (1) A person is guilty of unlawful recreational fishing in the
8 second degree if the person fishes for, takes, possesses, or harvests
9 fish or shellfish and:

10 (a) The person does not have and possess the license or the catch
11 record card required by chapter ((75.25—ex)) 77.32 RCW for such
12 activity; or

13 (b) The action violates any rule of the commission or the director
14 regarding seasons, bag or possession limits but less than two times the
15 bag or possession limit, closed areas, closed times, or any other rule
16 addressing the manner or method of fishing or possession of fish,
17 except for use of a net to take fish as provided for in RCW 77.15.580.

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

20 **Sec. 40.** RCW 77.15.390 and 2000 c 107 s 245 are each amended to
21 read as follows:

22 (1) A person is guilty of unlawful taking of seaweed if the person
23 takes, possesses, or harvests seaweed and:

24 (a) The person does not have and possess the license required by
25 chapter ((75.25)) 77.32 RCW for taking seaweed; or

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

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

33 **Sec. 41.** RCW 77.15.400 and 1999 c 258 s 2 are each amended to read
34 as follows:

35 (1) A person is guilty of unlawful hunting of wild birds in the
36 second degree if the person:

1 (a) Hunts for, takes, or possesses a wild bird and the person does
2 not have and possess all licenses, tags, stamps, and permits required
3 under this title;

4 (b) Maliciously destroys, takes, or harms the eggs or nests of a
5 (~~game~~ ~~[wild]~~) wild bird except when authorized by permit;

6 (c) Violates any rule of the commission or director regarding
7 seasons, bag or possession limits but less than two times the bag or
8 possession limit, closed areas, closed times, or other rule addressing
9 the manner or method of hunting or possession of wild birds; or

10 (d) Possesses a wild bird taken during a closed season for that
11 wild bird or taken from a closed area for that wild bird.

12 (2) A person is guilty of unlawful hunting of wild birds in the
13 first degree if the person takes or possesses two times or more than
14 the possession or bag limit for (~~game~~ ~~[wild]~~) wild birds allowed by
15 rule of the commission or director.

16 (3)(a) Unlawful hunting of wild birds in the second degree is a
17 misdemeanor.

18 (b) Unlawful hunting of wild birds in the first degree is a gross
19 misdemeanor.

20 **Sec. 42.** RCW 77.15.480 and 2000 c 107 s 247 are each amended to
21 read as follows:

22 Articles or devices unlawfully used, possessed, or maintained for
23 catching, taking, killing, attracting, or decoying wildlife, fish, and
24 shellfish are public nuisances. If necessary, fish and wildlife
25 officers and ex officio fish and wildlife officers may seize, abate, or
26 destroy these public nuisances without warrant or process.

27 **Sec. 43.** RCW 77.15.510 and 1998 c 190 s 36 are each amended to
28 read as follows:

29 (1) A person is guilty of commercial fish guiding or chartering
30 without a license if:

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

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

35 (c) The person acts as a game fish guide and does not hold a
36 (~~professional~~) game fish guide license.

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

3 **Sec. 44.** RCW 77.15.550 and 1999 c 258 s 10 are each amended to
4 read as follows:

5 (1) A person is guilty of violating commercial fishing area or time
6 in the second degree if the person acts for commercial purposes and
7 takes, fishes for, possesses, delivers, or receives ((~~food~~)) fish or
8 shellfish:

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

10 (b) From an area that was closed to the taking of such ((~~food~~))
11 fish or shellfish for commercial purposes by statute or rule; or

12 (c) If such fish or shellfish do not conform to the special
13 restrictions or physical descriptions established by rule of the
14 department.

15 (2) A person is guilty of violating commercial fishing area or time
16 in the first degree if the person commits the act described by
17 subsection (1) of this section and:

18 (a) The person acted with knowledge that the area or time was not
19 open to the taking or fishing of ((~~food~~)) fish or shellfish for
20 commercial purposes; and

21 (b) The violation involved two hundred fifty dollars or more worth
22 of ((~~food~~)) fish or shellfish.

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

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

27 **Sec. 45.** RCW 77.15.600 and 1999 c 258 s 8 are each amended to read
28 as follows:

29 (1) A person is guilty of engaging in commercial wildlife activity
30 without a license if the person:

31 (a) Deals in raw furs for commercial purposes and does not hold a
32 fur dealer license required by chapter ((~~77.32~~)) 77.65 RCW; or

33 (b) Practices taxidermy for commercial purposes and does not hold
34 a taxidermy license required by chapter ((~~77.32~~)) 77.65 RCW.

35 (2) Engaging in commercial wildlife activities without a license is
36 a gross misdemeanor.

1 **Sec. 46.** RCW 77.15.700 and 1998 c 190 s 66 are each amended to
2 read as follows:

3 The department shall impose revocation and suspension of privileges
4 upon conviction in the following circumstances:

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

6 (2) If the department finds that actions of the defendant
7 demonstrated a willful or wanton disregard for conservation of fish or
8 wildlife. Such suspension of privileges may be permanent;

9 (3) If a person is convicted twice within ten years for a violation
10 involving unlawful hunting, killing, or possessing big game, the
11 department shall order revocation and suspension of all hunting
12 privileges for two years. RCW ((77.16.020)) 77.12.722 or 77.16.050 as
13 it existed before June 11, 1998, may comprise one of the convictions
14 constituting the basis for revocation and suspension under this
15 subsection;

16 (4) If a person is convicted three times in ten years of any
17 violation of recreational hunting or fishing laws or rules, the
18 department shall order a revocation and suspension of all recreational
19 hunting and fishing privileges for two years;

20 (5) If a person is convicted twice within five years of a gross
21 misdemeanor or felony involving unlawful commercial fish or shellfish
22 harvesting, buying, or selling, the department shall impose a
23 revocation and suspension of the person's commercial fishing privileges
24 for one year. A commercial fishery license ((~~suspended~~)) revoked under
25 this subsection may not be used by an alternate operator or transferred
26 during the period of suspension.

27 **Sec. 47.** RCW 77.15.730 and 1994 c 264 s 45 are each amended to
28 read as follows:

29 (1) Upon receipt of a report of failure to comply with the terms of
30 a citation issued for a recreational violation from the licensing
31 authority of a state that is a party to the wildlife violator compact
32 under RCW ((77.17.010)) 77.75.070, the department shall suspend the
33 violator's recreational license privileges under this title until
34 ((~~{there is}~~)) there is satisfactory evidence of compliance with the
35 terms of the wildlife citation. The department shall adopt by rule
36 procedures for the timely notification and administrative review of
37 such suspension of recreational licensing privileges.

1 (2) Upon receipt of a report of a conviction for a recreational
2 offense from the licensing authority of a state that is a party to the
3 wildlife violator compact under RCW ((77.17.010)) 77.75.070, the
4 department shall enter such conviction in its records and shall treat
5 such conviction as if it occurred in the state of Washington for the
6 purposes of suspension, revocation, or forfeiture of recreational
7 license privileges.

8 **Sec. 48.** RCW 77.16.220 and 1998 c 190 s 122 are each amended to
9 read as follows:

10 A person shall not divert water from a lake, river, or stream
11 containing game fish unless the water diversion device is equipped at
12 or near its intake with a fish guard or screen to prevent the passage
13 of game fish into the device and, if necessary, with a means of
14 returning game fish from immediately in front of the fish guard or
15 screen to the waters of origin. A person who ((is now)) was, on June
16 11, 1947, otherwise lawfully diverting water from a lake, river, or
17 stream shall not be deemed guilty of a violation of this section.

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

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

24 **Sec. 49.** RCW 77.32.010 and 2000 c 107 s 264 are each amended to
25 read as follows:

26 (1) Except as otherwise provided in this chapter, a recreational
27 license issued by the director is required to((+)

28 (a)) hunt for or take wild animals((~~, except bullfrogs,~~)) or wild
29 birds, fish for, take, or harvest fish, shellfish, and seaweed((~~, or~~
30 ~~except smelt, albacore, carp, and crawfish;~~

31 (b) ~~Practice taxidermy for profit;~~

32 (c) ~~Deal in raw furs for profit;~~

33 (d) ~~Act as a fishing guide;~~

34 (e) ~~Operate a game farm;~~

35 (f) ~~Purchase or sell anadromous game fish; or~~

36 (g) ~~Use department managed lands or facilities as provided by rules~~
37 adopted pursuant to this title)). A recreational fishing or shellfish

1 license is not required for carp, smelt, albacore, and crawfish, and a
2 hunting license is not required for bullfrogs.

3 (2) A permit issued by the ((director)) department is required
4 to((+)

5 ~~(a) Conduct, hold, or sponsor hunting or game fish fishing contests~~
6 ~~or competitive field trials using live wildlife;~~

7 ~~(b) Collect wild animals, wild birds, game fish, food fish,~~
8 ~~shellfish, or protected wildlife for research or display; or~~

9 ~~(c) Stock game fish.~~

10 ~~(3) Aquaculture as defined in RCW 15.85.020 is exempt from the~~
11 ~~requirements of this section, except when being stocked in public~~
12 ~~waters under contract with the department)) park a motor vehicle upon~~
13 improved department access facilities.

14 **Sec. 50.** RCW 77.32.014 and 2000 c 107 s 265 are each amended to
15 read as follows:

16 ((+)) Licenses, tags, and stamps issued pursuant to this chapter
17 shall be ((invalid)) revoked and the privileges suspended for any
18 period in which a person is certified by the department of social and
19 health services or a court of competent jurisdiction as a person in
20 noncompliance with a support order. Fish and wildlife officers and ex
21 officio fish and wildlife officers shall enforce this section through
22 checks of the department of licensing's computer data base. A listing
23 on the department of licensing's data base that an individual's license
24 is currently suspended pursuant to RCW 46.20.291(8) shall be prima
25 facie evidence that the individual is in noncompliance with a support
26 order. Presentation of a written release issued by the department of
27 social and health services stating that the person is in compliance
28 with an order shall serve as prima facie proof of compliance with a
29 support order.

30 ~~((2) It is unlawful to purchase, obtain, or possess a license~~
31 ~~required by this chapter during any period in which a license is~~
32 ~~suspended.))~~

33 **Sec. 51.** RCW 77.32.250 and 2000 c 107 s 269 are each amended to
34 read as follows:

35 Licenses, permits, tags, and stamps required by this chapter and
36 raffle tickets authorized under this chapter shall not be transferred.

1 (~~Upon request of a fish and wildlife officer or ex officio fish
2 and wildlife officer, persons licensed, operating under a permit, or
3 possessing wildlife under the authority of this chapter shall produce
4 required licenses, permits, tags, stamps, raffle tickets, or catch
5 record cards for inspection and write their signatures for comparison
6 and in addition display their wildlife. Failure to comply with the
7 request is prima facie evidence that the person has no license or is
8 not the person named.~~)

9 **Sec. 52.** RCW 77.32.535 and 1996 c 101 s 6 are each amended to read
10 as follows:

11 If a private entity has a private lands wildlife management area
12 agreement in effect with the department, the commission may authorize
13 the private entity to conduct raffles for access to hunt for big game
14 animals and wild turkeys to meet the conditions of the agreement. The
15 private entity shall comply with all applicable rules adopted under RCW
16 ((77.12.770)) 77.32.530 for the implementation of raffles; however,
17 raffle hunts conducted pursuant to this section shall not be counted
18 toward the number of raffle hunts the commission may authorize under
19 RCW ((77.12.770)) 77.32.530. The director shall establish the
20 procedures for the hunts, which shall require any participants to
21 obtain any required license, permit, or tag. Representatives of the
22 department may participate in the hunt upon the request of the
23 commission to ensure that the animals to be killed are properly
24 identified.

25 **Sec. 53.** RCW 77.44.070 and 1991 c 253 s 4 are each amended to read
26 as follows:

27 Any agency of state or federal government, political subdivision of
28 the state, private or public utility company, corporation, or sports
29 group, or any purchaser of fish under RCW ((77.18.020)) 77.44.060 may
30 purchase resident game fish from an aquatic farmer for stocking
31 purposes if permit requirements of this title and the department have
32 been met.

33 **Sec. 54.** RCW 77.55.280 and 1997 c 425 s 4 are each amended to read
34 as follows:

35 When a private landowner is applying for hydraulic project approval
36 under this chapter and that landowner has entered into a habitat

1 incentives agreement with the department and the department of natural
2 resources as provided in RCW ((77.12.830)) 77.55.300, the department
3 shall comply with the terms of that agreement when evaluating the
4 request for hydraulic project approval.

5 **Sec. 55.** RCW 77.55.290 and 1998 c 249 s 3 are each amended to read
6 as follows:

7 (1) In order to receive the permit review and approval process
8 created in this section, a fish habitat enhancement project must meet
9 the criteria under (a) and (b) of this subsection:

10 (a) A fish habitat enhancement project must be a project to
11 accomplish one or more of the following tasks:

12 (i) Elimination of human-made fish passage barriers, including
13 culvert repair and replacement;

14 (ii) Restoration of an eroded or unstable stream bank employing the
15 principle of bioengineering, including limited use of rock as a
16 stabilization only at the toe of the bank, and with primary emphasis on
17 using native vegetation to control the erosive forces of flowing water;
18 or

19 (iii) Placement of woody debris or other instream structures that
20 benefit naturally reproducing fish stocks.

21 The department shall develop size or scale threshold tests to
22 determine if projects accomplishing any of these tasks should be
23 evaluated under the process created in this section or under other
24 project review and approval processes. A project proposal shall not be
25 reviewed under the process created in this section if the department
26 determines that the scale of the project raises concerns regarding
27 public health and safety; and

28 (b) A fish habitat enhancement project must be approved in one of
29 the following ways:

30 (i) By the department pursuant to chapter ((75.50 or 75.52)) 77.95
31 or 77.100 RCW;

32 (ii) By the sponsor of a watershed restoration plan as provided in
33 chapter 89.08 RCW;

34 (iii) By the department as a department-sponsored fish habitat
35 enhancement or restoration project;

36 (iv) Through the review and approval process for the jobs for the
37 environment program;

1 (v) Through the review and approval process for conservation
2 district-sponsored projects, where the project complies with design
3 standards established by the conservation commission through
4 interagency agreement with the United States fish and wildlife service
5 and the natural resource conservation service;

6 (vi) Through a formal grant program established by the legislature
7 or the department for fish habitat enhancement or restoration; and

8 (vii) Through other formal review and approval processes
9 established by the legislature.

10 (2) Fish habitat enhancement projects meeting the criteria of
11 subsection (1) of this section are expected to result in beneficial
12 impacts to the environment. Decisions pertaining to fish habitat
13 enhancement projects meeting the criteria of subsection (1) of this
14 section and being reviewed and approved according to the provisions of
15 this section are not subject to the requirements of RCW
16 43.21C.030(2)(c).

17 (3) Hydraulic project approval is required for projects that meet
18 the criteria of subsection (1) of this section and are being reviewed
19 and approved under this section. An applicant shall use a joint
20 aquatic resource permit application form developed by the department of
21 ecology permit assistance center to apply for approval under this
22 chapter. On the same day, the applicant shall provide copies of the
23 completed application form to the department and to each appropriate
24 local government. Local governments shall accept the application as
25 notice of the proposed project. The department shall provide a
26 fifteen-day comment period during which it will receive comments
27 regarding environmental impacts. In no more than forty-five days, the
28 department shall either issue hydraulic project approval, with or
29 without conditions, deny approval, or make a determination that the
30 review and approval process created by this section is not appropriate
31 for the proposed project. The department shall base this determination
32 on identification during the comment period of adverse impacts that
33 cannot be mitigated by hydraulic project approval. If the department
34 determines that the review and approval process created by this section
35 is not appropriate for the proposed project, the department shall
36 notify the applicant and the appropriate local governments of its
37 determination. The applicant may reapply for approval of the project
38 under other review and approval processes.

1 Any person aggrieved by the approval, denial, conditioning, or
2 modification of hydraulic project approval under this section may
3 formally appeal the decision to the hydraulic appeals board pursuant to
4 the provisions of this chapter.

5 (4) No local government may require permits or charge fees for fish
6 habitat enhancement projects that meet the criteria of subsection (1)
7 of this section and that are reviewed and approved according to the
8 provisions of this section.

9 NEW SECTION. **Sec. 56.** A new section is added to chapter 77.65 RCW
10 to read as follows:

11 (1) A license issued by the director is required to:

12 (a) Practice taxidermy for commercial purposes;

13 (b) Deal in raw furs for commercial purposes;

14 (c) Act as a fishing guide;

15 (d) Operate a game farm; or

16 (e) Purchase or sell anadromous game fish.

17 (2) A permit issued by the director is required to:

18 (a) Conduct, hold, or sponsor hunting or fishing contests or
19 competitive field trials using live wildlife;

20 (b) Collect wild animals, wild birds, game fish, food fish,
21 shellfish, or protected wildlife for research or display;

22 (c) Stock game fish; or

23 (d) Conduct commercial activities on department-owned or controlled
24 lands.

25 (3) Aquaculture as defined in RCW 15.85.020 is exempt from the
26 requirements of this section, except when being stocked in public
27 waters under contract with the department.

28 **Sec. 57.** RCW 77.70.010 and 1997 c 58 s 884 are each amended to
29 read as follows:

30 (1) A license renewed under the provisions of this chapter that has
31 been suspended under RCW ((75.28.042)) 77.65.080 shall be subject to
32 the following provisions:

33 (a) A license renewal fee shall be paid as a condition of
34 maintaining a current license; and

35 (b) The department shall waive any other license requirements,
36 unless the department determines that the license holder has had
37 sufficient opportunity to meet these requirements.

1 (2) The provisions of subsection (1) of this section shall apply
2 only to a license that has been suspended under RCW ((75.28.042))
3 77.65.080 for a period of twelve months or less. A license holder
4 shall forfeit a license subject to this chapter and may not recover any
5 license renewal fees previously paid if the license holder does not
6 meet the requirements of RCW 74.20A.320(9) within twelve months of
7 license suspension.

8 **Sec. 58.** RCW 77.70.150 and 1999 c 126 s 1 are each amended to read
9 as follows:

10 (1) A sea urchin dive fishery license is required to take sea
11 urchins for commercial purposes. A sea urchin dive fishery license
12 authorizes the use of only one diver in the water at any time during
13 sea urchin harvest operations. If the same vessel has been designated
14 on two sea urchin dive fishery licenses, two divers may be in the
15 water. A natural person may not hold more than two sea urchin dive
16 fishery licenses.

17 (2) Except as provided in subsection (6) of this section, the
18 director shall issue no new sea urchin dive fishery licenses. For
19 licenses issued for the year 2000 and thereafter, the director shall
20 renew existing licenses only to a natural person who held the license
21 at the end of the previous year. If a sea urchin dive fishery license
22 is not held by a natural person as of December 31, 1999, it is not
23 renewable. However, if the license is not held because of revocation
24 or suspension of licensing privileges, the director shall renew the
25 license in the name of a natural person at the end of the revocation or
26 suspension if the license holder applies for renewal of the license
27 before the end of the year in which the revocation or suspension ends.

28 (3) Where a licensee failed to obtain the license during the
29 previous year because of a license suspension or revocation by the
30 ((department)) director or the court, the licensee may qualify for a
31 license by establishing that the person held such a license during the
32 last year in which the person was eligible.

33 (4) Surcharges as provided for in this section shall be collected
34 and deposited into the sea urchin dive fishery account hereby created
35 in the custody of the state treasurer. Only the director or the
36 director's designee may authorize expenditures from the account. The
37 sea urchin dive fishery account is subject to allotment procedures
38 under chapter 43.88 RCW, but no appropriation is required for

1 expenditures. Expenditures from the account shall only be used to
2 retire sea urchin licenses until the number of licenses is reduced to
3 twenty-five, and thereafter shall only be used for sea urchin
4 management and enforcement.

5 (a) A surcharge of one hundred dollars shall be charged with each
6 sea urchin dive fishery license renewal for licenses issued in 2000
7 through 2005.

8 (b) For licenses issued for the year 2000 and thereafter, a
9 surcharge shall be charged on the sea urchin dive fishery license for
10 designating an alternate operator. The surcharge shall be as follows:
11 Five hundred dollars for the first year or each of the first two
12 consecutive years after 1999 that any alternate operator is designated
13 and two thousand five hundred dollars each year thereafter that any
14 alternate operator is designated.

15 (5) Sea urchin dive fishery licenses are transferable. After
16 December 31, 1999, there is a surcharge to transfer a sea urchin dive
17 fishery license. The surcharge is five hundred dollars for the first
18 transfer of a license valid for calendar year 2000, and two thousand
19 five hundred dollars for any subsequent transfer, whether occurring in
20 the year 2000 or thereafter. Notwithstanding this subsection, a one-
21 time transfer exempt from surcharge applies for a transfer from the
22 natural person licensed on January 1, 2000, to that person's spouse or
23 child.

24 (6) If fewer than twenty-five natural persons are eligible for sea
25 urchin dive fishery licenses, the director may accept applications for
26 new licenses. The additional licenses may not cause more than twenty-
27 five natural persons to be eligible for a sea urchin dive fishery
28 license. New licenses issued under this section shall be distributed
29 according to rules of the department that recover the value of such
30 licensed privilege.

31 **Sec. 59.** RCW 77.70.190 and 1999 c 126 s 2 are each amended to read
32 as follows:

33 (1) A sea cucumber dive fishery license is required to take sea
34 cucumbers for commercial purposes. A sea cucumber dive fishery license
35 authorizes the use of only one diver in the water at any time during
36 sea cucumber harvest operations. If the same vessel has been
37 designated on two sea cucumber dive fishery licenses, two divers may be

1 in the water. A natural person may not hold more than two sea cucumber
2 dive fishery licenses.

3 (2) Except as provided in subsection (6) of this section, the
4 director shall issue no new sea cucumber dive fishery licenses. For
5 licenses issued for the year 2000 and thereafter, the director shall
6 renew existing licenses only to a natural person who held the license
7 at the end of the previous year. If a sea cucumber dive fishery
8 license is not held by a natural person as of December 31, 1999, it is
9 not renewable. However, if the license is not held because of
10 revocation or suspension of licensing privileges, the director shall
11 renew the license in the name of a natural person at the end of the
12 revocation or suspension if the license holder applies for renewal of
13 the license before the end of the year in which the revocation or
14 suspension ends.

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

20 (4) Surcharges as provided for in this section shall be collected
21 and deposited into the sea cucumber dive fishery account hereby created
22 in the custody of the state treasurer. Only the director or the
23 director's designee may authorize expenditures from the account. The
24 sea cucumber dive fishery account is subject to allotment procedures
25 under chapter 43.88 RCW, but no appropriation is required for
26 expenditures. Expenditures from the account shall only be used to
27 retire sea cucumber licenses until the number of licenses is reduced to
28 twenty-five, and thereafter shall only be used for sea cucumber
29 management and enforcement.

30 (a) A surcharge of one hundred dollars shall be charged with each
31 sea cucumber dive fishery license renewal for licenses issued in 2000
32 through 2005.

33 (b) For licenses issued for the year 2000 and thereafter, a
34 surcharge shall be charged on the sea cucumber dive fishery
35 (~~license~~) license for designating an alternate operator. The
36 surcharge shall be as follows: Five hundred dollars for the first year
37 or each of the first two consecutive years after 1999 that any
38 alternate operator is designated and two thousand five hundred dollars
39 each year thereafter that any alternate operator is designated.

1 (5) Sea cucumber dive fishery licenses are transferable. After
2 December 31, 1999, there is a surcharge to transfer a sea cucumber dive
3 fishery license. The surcharge is five hundred dollars for the first
4 transfer of a license valid for calendar year 2000 and two thousand
5 five hundred dollars for any subsequent transfer whether occurring in
6 the year 2000 or thereafter. Notwithstanding this subsection, a one-
7 time transfer exempt from surcharge applies for a transfer from the
8 natural person licensed on January 1, 2000, to that person's spouse or
9 child.

10 (6) If fewer than twenty-five persons are eligible for sea cucumber
11 dive fishery licenses, the director may accept applications for new
12 licenses. The additional licenses may not cause more than twenty-five
13 natural persons to be eligible for a sea cucumber dive fishery license.
14 New licenses issued under this section shall be distributed according
15 to rules of the department that recover the value of such licensed
16 privilege.

17 **Sec. 60.** RCW 79A.60.100 and 1994 c 264 s 80 are each amended to
18 read as follows:

19 (1) Every law enforcement officer of this state and its political
20 subdivisions has the authority to enforce this chapter. Law
21 enforcement officers may enforce recreational boating rules adopted by
22 the commission. Such law enforcement officers include, but are not
23 limited to, county sheriffs, officers of other local law enforcement
24 entities, (~~wildlife agents and fisheries patrol~~) fish and wildlife
25 officers (~~of the department of fish and wildlife~~), through the
26 director, the state patrol, (~~through its chief,~~) and state park
27 rangers. In the exercise of this responsibility, all such officers may
28 stop and board any vessel and direct it to a suitable pier or anchorage
29 to enforce this chapter.

30 (2) This chapter shall be construed to supplement federal laws and
31 regulations. To the extent this chapter is inconsistent with federal
32 laws and regulations, the federal laws and regulations shall control.

33 NEW SECTION. **Sec. 61.** (1) RCW 77.12.055 and 77.65.470 are each
34 recodified as sections in chapter 77.15 RCW.

35 (2) RCW 77.12.425 and 77.16.220 are each recodified as sections in
36 chapter 77.55 RCW.

37 (3) RCW 77.32.220 is recodified as a section in chapter 77.65 RCW.

1 NEW SECTION. **Sec. 62.** The following acts or parts of acts are
2 each repealed:

3 (1) RCW 77.12.030 (Authority to regulate wildlife) and 1987 c 506
4 s 14, 1984 c 240 s 2, 1980 c 78 s 14, 1969 ex.s. c 18 s 2, & 1955 c 36
5 s 77.12.030;

6 (2) RCW 77.12.040 (Regulating the taking or possessing of game--
7 Emergency rules--Game reserves, closed areas and waters) and 1987 c 506
8 s 15, 1984 c 240 s 3, 1980 c 78 s 15, 1969 ex.s. c 18 s 3, & 1955 c 36
9 s 77.12.040;

10 (3) RCW 77.12.105 (Authority to retain or transfer wildlife) and
11 1987 c 506 s 22, 1980 c 78 s 71, 1977 c 44 s 2, & 1955 c 36 s
12 77.16.030;

13 (4) RCW 77.12.250 (Entry upon property in course of duty) and 2000
14 c 107 s 220, 1980 c 78 s 42, & 1955 c 36 s 77.12.250;

15 (5) RCW 77.12.295 (Fish and wildlife harvest in federal exclusive
16 economic zone--Rules) and 1995 1st sp.s. c 2 s 9 & 1993 sp.s. c 2 s 99;

17 (6) RCW 77.12.457 (Planting food fish or shellfish--Permit
18 authorized by rule) and 1998 c 190 s 73, 1995 1st sp.s. c 2 s 17, 1983
19 1st ex.s. c 46 s 30, & 1955 c 12 s 75.16.020;

20 (7) RCW 77.12.724 (Possession of fish and wildlife--Rules) and 1998
21 c 190 s 120, 1987 c 506 s 63, & 1980 c 78 s 78; and

22 (8) RCW 77.32.420 (Recreational licenses--Nontransferable--
23 Enforcement provisions) and 2000 c 107 s 272, 1998 c 191 s 4, 1993
24 sp.s. c 17 s 8, 1989 c 305 s 12, 1987 c 87 s 7, 1984 c 80 s 8, 1983 1st
25 ex.s. c 46 s 98, 1980 c 78 s 135, & 1977 ex.s. c 327 s 15.

--- END ---