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**SUBSTITUTE HOUSE BILL 1885**

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**State of Washington                      61st Legislature                      2009 Regular Session**

**By** House Agriculture & Natural Resources (originally sponsored by Representatives Van De Wege, Blake, Warnick, Takko, Ormsby, and Lias)

READ FIRST TIME 02/23/09.

1            AN ACT Relating to feeding wildlife; amending RCW 77.08.010 and  
2 77.15.160; adding a new section to chapter 77.15 RCW; and creating a  
3 new section.

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

5            NEW SECTION.    **Sec. 1.** It is the intent of the legislature to  
6 protect wildlife from becoming habituated to humans and to protect the  
7 public against the serious health and safety risk posed by wildlife  
8 that are drawn into contact with humans and related infrastructure by  
9 individuals who intentionally feed wildlife.

10           NEW SECTION.    **Sec. 2.** A new section is added to chapter 77.15 RCW  
11 to read as follows:

12            (1) A person may not place, deposit, distribute, or scatter grain,  
13 hay, or other food so as to intentionally constitute a lure,  
14 attraction, or enticement for potentially habituated wildlife not  
15 lawfully held in captivity.

16            (2)(a) Except as otherwise provided in this section, if a fish and  
17 wildlife officer or an ex officio fish and wildlife officer receives a  
18 complaint and has probable cause to believe that a person acted in

1 violation of this section, the officer may issue a written warning  
2 requiring the person to contain, move, or remove the grain, hay, or  
3 other food within two days.

4 (b) If a person who is issued a written warning under (a) of this  
5 subsection fails to contain, move, or remove the grain, hay, or other  
6 food as directed, a fish and wildlife officer or an ex officio fish and  
7 wildlife officer may issue a natural resources infraction under chapter  
8 7.84 RCW.

9 (3) This section does not apply to:

10 (a) A person who is hunting or trapping potentially habituated  
11 wildlife in accordance with all other applicable provisions of this  
12 title or rules of the commission or the director;

13 (b) A person who is engaged in a farming or ranching operation that  
14 is using best management practices or other generally accepted farming  
15 practices;

16 (c) A person who is feeding potentially habituated wildlife, with  
17 the director's authorization, to prevent damage to private property;

18 (d) A person who is feeding potentially habituated wildlife, with  
19 the director's authorization, to mitigate the population loss  
20 anticipated by a predicted winter mortality;

21 (e) A person who is feeding potentially habituated wildlife, with  
22 the director's authorization, as a part of a research or management  
23 program;

24 (f) Waste disposal facilities operating in accordance with  
25 applicable federal, state, and municipal laws; and

26 (g) Zoos and lawfully operated wildlife refuges, or wildlife  
27 rehabilitators operating under RCW 77.12.467.

28 (4) Due to the documented, chronic malnutrition of the Mt. St.  
29 Helens elk herd, no individual shall be issued a warning or a natural  
30 resources infraction under this section for feeding elk in the Mt. St.  
31 Helens elk herd management area, as identified in the Washington state  
32 elk herd plan prepared by the department in May 2006, until July 31,  
33 2019.

34 **Sec. 3.** RCW 77.08.010 and 2008 c 277 s 2 are each amended to read  
35 as follows:

36 The definitions in this section apply throughout this title or

1 rules adopted under this title unless the context clearly requires  
2 otherwise.

3 (1) "Angling gear" means a line attached to a rod and reel capable  
4 of being held in hand while landing the fish or a hand-held line  
5 operated without rod or reel.

6 (2) "Aquatic invasive species" means any invasive, prohibited,  
7 regulated, unregulated, or unlisted aquatic animal or plant species as  
8 defined under subsections (~~((48) through (53))~~) (3), (25), (35), (39),  
9 (52), and (53) of this section, aquatic noxious weeds as defined under  
10 RCW 17.26.020(5)(c), and aquatic nuisance species as defined under RCW  
11 77.60.130(1).

12 (3) "Aquatic plant species" means an emergent, submersed, partially  
13 submersed, free-floating, or floating-leaving plant species that grows  
14 in or near a body of water or wetland.

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

19 (5) "Closed area" means a place where the hunting of some or all  
20 species of wild animals or wild birds is prohibited.

21 (6) "Closed season" means all times, manners of taking, and places  
22 or waters other than those established by rule of the commission as an  
23 open season. "Closed season" also means all hunting, fishing, taking,  
24 or possession of game animals, game birds, game fish, food fish, or  
25 shellfish that do not conform to the special restrictions or physical  
26 descriptions established by rule of the commission as an open season or  
27 that have not otherwise been deemed legal to hunt, fish, take, harvest,  
28 or possess by rule of the commission as an open season.

29 (7) "Closed waters" means all or part of a lake, river, stream, or  
30 other body of water, where fishing or harvesting is prohibited.

31 (8) "Commercial" means related to or connected with buying,  
32 selling, or bartering.

33 (9) "Commission" means the state fish and wildlife commission.

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

37 (11) "Deleterious exotic wildlife" means species of the animal

1 kingdom not native to Washington and designated as dangerous to the  
2 environment or wildlife of the state.

3 (12) "Department" means the department of fish and wildlife.

4 (13) "Director" means the director of fish and wildlife.

5 (14) "Endangered species" means wildlife designated by the  
6 commission as seriously threatened with extinction.

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

16 (16) "Fish" includes all species classified as game fish or food  
17 fish by statute or rule, as well as all fin fish not currently  
18 classified as food fish or game fish if such species exist in state  
19 waters. The term "fish" includes all stages of development and the  
20 bodily parts of fish species.

21 (17) "Fish and wildlife officer" means a person appointed and  
22 commissioned by the director, with authority to enforce this title and  
23 rules adopted pursuant to this title, and other statutes as prescribed  
24 by the legislature. Fish and wildlife officer includes a person  
25 commissioned before June 11, 1998, as a wildlife agent or a fisheries  
26 patrol officer.

27 (18) "Fishery" means the taking of one or more particular species  
28 of fish or shellfish with particular gear in a particular geographical  
29 area.

30 (19) "Freshwater" means all waters not defined as saltwater  
31 including, but not limited to, rivers upstream of the river mouth,  
32 lakes, ponds, and reservoirs.

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

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

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

1 (23) "Game farm" means property on which wildlife is held or raised  
2 for commercial purposes, trade, or gift. The term "game farm" does not  
3 include publicly owned facilities.

4 (24) "Game reserve" means a closed area where hunting for all wild  
5 animals and wild birds is prohibited.

6 (25) "Invasive species" means a plant species or a nonnative animal  
7 species that either:

8 (a) Causes or may cause displacement of, or otherwise threatens,  
9 native species in their natural communities;

10 (b) Threatens or may threaten natural resources or their use in the  
11 state;

12 (c) Causes or may cause economic damage to commercial or  
13 recreational activities that are dependent upon state waters; or

14 (d) Threatens or harms human health.

15 (26) "License year" means the period of time for which a  
16 recreational license is valid. The license year begins April 1st, and  
17 ends March 31st.

18 (27) "Limited-entry license" means a license subject to a license  
19 limitation program established in chapter 77.70 RCW.

20 (28) "Nonresident" means a person who has not fulfilled the  
21 qualifications of a resident.

22 (29) "Offshore waters" means marine waters of the Pacific Ocean  
23 outside the territorial boundaries of the state, including the marine  
24 waters of other states and countries.

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

33 (31) "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  
37 common purpose whether acting in an individual, representative, or  
38 official capacity.

1 (32) "Personal use" means for the private use of the individual  
2 taking the fish or shellfish and not for sale or barter.

3 (33) "Potentially habituated wildlife" includes bear, cougar, wolf,  
4 coyote, deer, elk, and raccoon.

5 (34) "Predatory birds" means wild birds that may be hunted  
6 throughout the year as authorized by the commission.

7 ((+34+)) (35) "Prohibited aquatic animal species" means an invasive  
8 species of the animal kingdom that has been classified as a prohibited  
9 aquatic animal species by the commission.

10 ((+35+)) (36) "Protected wildlife" means wildlife designated by the  
11 commission that shall not be hunted or fished.

12 ((+36+)) (37) "Raffle" means an activity in which tickets bearing  
13 an individual number are sold for not more than twenty-five dollars  
14 each and in which a permit or permits are awarded to hunt or for access  
15 to hunt big game animals or wild turkeys on the basis of a drawing from  
16 the tickets by the person or persons conducting the raffle.

17 ((+37+)) (38) "Recreational and commercial watercraft" includes the  
18 boat, as well as equipment used to transport the boat, and any  
19 auxiliary equipment such as attached or detached outboard motors.

20 ((+38+)) (39) "Regulated aquatic animal species" means a  
21 potentially invasive species of the animal kingdom that has been  
22 classified as a regulated aquatic animal species by the commission.

23 ((+39+)) (40) "Resident" means:

24 (a) A person who has maintained a permanent place of abode within  
25 the state for at least ninety days immediately preceding an application  
26 for a license, has established by formal evidence an intent to continue  
27 residing within the state, and who is not licensed to hunt or fish as  
28 a resident in another state; and

29 (b) A person age eighteen or younger who does not qualify as a  
30 resident under (a) of this subsection, but who has a parent that  
31 qualifies as a resident under (a) of this subsection.

32 ((+40+)) (41) "Retail-eligible species" means commercially  
33 harvested salmon, crab, and sturgeon.

34 ((+41+)) (42) "Saltwater" means those marine waters seaward of  
35 river mouths.

36 ((+42+)) (43) "Seaweed" means marine aquatic plant species that are  
37 dependent upon the marine aquatic or tidal environment, and exist in

1 either an attached or free floating form, and includes but is not  
2 limited to marine aquatic plants in the classes Chlorophyta,  
3 Phaeophyta, and Rhodophyta.

4 ~~((+43+))~~ (44) "Senior" means a person seventy years old or older.

5 ~~((+44+))~~ (45) "Shellfish" means those species of marine and  
6 freshwater invertebrates that have been classified and that shall not  
7 be taken except as authorized by rule of the commission. The term  
8 "shellfish" includes all stages of development and the bodily parts of  
9 shellfish species.

10 ~~((+45+))~~ (46) "State waters" means all marine waters and fresh  
11 waters within ordinary high water lines and within the territorial  
12 boundaries of the state.

13 ~~((+46+))~~ (47) "To fish," "to harvest," and "to take," and their  
14 derivatives means an effort to kill, injure, harass, or catch a fish or  
15 shellfish.

16 ~~((+47+))~~ (48) "To hunt" and its derivatives means an effort to  
17 kill, injure, capture, or harass a wild animal or wild bird.

18 ~~((+48+))~~ (49) "To process" and its derivatives mean preparing or  
19 preserving fish, wildlife, or shellfish.

20 ~~((+49+))~~ (50) "To trap" and its derivatives means a method of  
21 hunting using devices to capture wild animals or wild birds.

22 ~~((+50+))~~ (51) "Trafficking" means offering, attempting to engage,  
23 or engaging in sale, barter, or purchase of fish, shellfish, wildlife,  
24 or deleterious exotic wildlife.

25 ~~((+51+))~~ (52) "Unlisted aquatic animal species" means a nonnative  
26 animal species that has not been classified as a prohibited aquatic  
27 animal species, a regulated aquatic animal species, or an unregulated  
28 aquatic animal species by the commission.

29 ~~((+52+))~~ (53) "Unregulated aquatic animal species" means a  
30 nonnative animal species that has been classified as an unregulated  
31 aquatic animal species by the commission.

32 ~~((+53+))~~ (54) "Wild animals" means those species of the class  
33 Mammalia whose members exist in Washington in a wild state and the  
34 species *Rana catesbeiana* (bullfrog). The term "wild animal" does not  
35 include feral domestic mammals or old world rats and mice of the family  
36 Muridae of the order Rodentia.

37 ~~((+54+))~~ (55) "Wild birds" means those species of the class Aves  
38 whose members exist in Washington in a wild state.

1           ((+55+)) (56) "Wildlife" means all species of the animal kingdom  
2 whose members exist in Washington in a wild state. This includes but  
3 is not limited to mammals, birds, reptiles, amphibians, fish, and  
4 invertebrates. The term "wildlife" does not include feral domestic  
5 mammals, old world rats and mice of the family Muridae of the order  
6 Rodentia, or those fish, shellfish, and marine invertebrates classified  
7 as food fish or shellfish by the director. The term "wildlife"  
8 includes all stages of development and the bodily parts of wildlife  
9 members.

10           ((+56+)) (57) "Youth" means a person fifteen years old for fishing  
11 and under sixteen years old for hunting.

12           **Sec. 4.** RCW 77.15.160 and 2000 c 107 s 237 are each amended to  
13 read as follows:

14           A person is guilty of an infraction, which shall be cited and  
15 punished as provided under chapter 7.84 RCW, if the person:

16           (1) Fails to immediately record a catch of fish or shellfish on a  
17 catch record card required by RCW 77.32.430, or required by rule of the  
18 commission under this title; ~~((or))~~

19           (2) Fishes for personal use using barbed hooks in violation of any  
20 rule; ~~((or))~~

21           (3) Intentionally feeds potentially habituated wildlife in  
22 violation of a written warning issued under section 2 of this act; or

23           (4) Violates any other rule of the commission or director that is  
24 designated by rule as an infraction.

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