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HOUSE BILL 2365

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State of Washington

62nd Legislature

2012 Regular Session

By Representatives Blake, Kretz, Dunshee, and McCune; by request of Department of Fish and Wildlife

Read first time 01/12/12. Referred to Committee on Agriculture & Natural Resources.

1 AN ACT Relating to large wild carnivore conflict management;  
2 amending RCW 77.08.030, 77.36.100, 77.36.130, and 77.15.160; reenacting  
3 and amending RCW 77.08.010; adding a new section to chapter 77.36 RCW;  
4 adding new sections to chapter 77.15 RCW; and prescribing penalties.

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

6 **Sec. 1.** RCW 77.08.010 and 2011 c 324 s 3 are each reenacted and  
7 amended to read as follows:

8 The definitions in this section apply throughout this title or  
9 rules adopted under this title unless the context clearly requires  
10 otherwise.

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

14 (2) "Aquatic invasive species" means any invasive, prohibited,  
15 regulated, unregulated, or unlisted aquatic animal or plant species as  
16 defined under subsections (3), (28), (40), (44), (60), and (61) of this  
17 section, aquatic noxious weeds as defined under RCW 17.26.020(5)(c),  
18 and aquatic nuisance species as defined under RCW 77.60.130(1).

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

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

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

10 (6) "Closed season" means all times, manners of taking, and places  
11 or waters other than those established by rule of the commission as an  
12 open season. "Closed season" also means all hunting, fishing, taking,  
13 or possession of game animals, game birds, game fish, food fish, or  
14 shellfish that do not conform to the special restrictions or physical  
15 descriptions established by rule of the commission as an open season or  
16 that have not otherwise been deemed legal to hunt, fish, take, harvest,  
17 or possess by rule of the commission as an open season.

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

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

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

23 (10) "Concurrent waters of the Columbia river" means those waters  
24 of the Columbia river that coincide with the Washington-Oregon state  
25 boundary.

26 (11) "Contraband" means any property that is unlawful to produce or  
27 possess.

28 (12) "Deleterious exotic wildlife" means species of the animal  
29 kingdom not native to Washington and designated as dangerous to the  
30 environment or wildlife of the state.

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

32 (14) "Director" means the director of fish and wildlife.

33 (15) "Endangered species" means wildlife designated by the  
34 commission as seriously threatened with extinction.

35 (16) "Ex officio fish and wildlife officer" means a commissioned  
36 officer of a municipal, county, state, or federal agency having as its  
37 primary function the enforcement of criminal laws in general, while the  
38 officer is in the appropriate jurisdiction. The term "ex officio fish

1 and wildlife officer" includes special agents of the national marine  
2 fisheries service, state parks commissioned officers, United States  
3 fish and wildlife special agents, department of natural resources  
4 enforcement officers, and United States forest service officers, while  
5 the agents and officers are within their respective jurisdictions.

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

11 (18) "Fish and wildlife officer" means a person appointed and  
12 commissioned by the director, with authority to enforce this title and  
13 rules adopted pursuant to this title, and other statutes as prescribed  
14 by the legislature. Fish and wildlife officer includes a person  
15 commissioned before June 11, 1998, as a wildlife agent or a fisheries  
16 patrol officer.

17 (19) "Fish broker" means a person whose business it is to bring a  
18 seller of fish and shellfish and a purchaser of those fish and  
19 shellfish together.

20 (20) "Fishery" means the taking of one or more particular species  
21 of fish or shellfish with particular gear in a particular geographical  
22 area.

23 (21) "Freshwater" means all waters not defined as saltwater  
24 including, but not limited to, rivers upstream of the river mouth,  
25 lakes, ponds, and reservoirs.

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

28 (23) "Game animals" means wild animals that shall not be hunted  
29 except as authorized by the commission.

30 (24) "Game birds" means wild birds that shall not be hunted except  
31 as authorized by the commission.

32 (25) "Game farm" means property on which wildlife is held or raised  
33 for commercial purposes, trade, or gift. The term "game farm" does not  
34 include publicly owned facilities.

35 (26) "Game reserve" means a closed area where hunting for all wild  
36 animals and wild birds is prohibited.

37 (27) "Illegal items" means those items unlawful to be possessed.

1 (28) "Invasive species" means a plant species or a nonnative animal  
2 species that either:  
3 (a) Causes or may cause displacement of, or otherwise threatens,  
4 native species in their natural communities;  
5 (b) Threatens or may threaten natural resources or their use in the  
6 state;  
7 (c) Causes or may cause economic damage to commercial or  
8 recreational activities that are dependent upon state waters; or  
9 (d) Threatens or harms human health.

10 (29) "License year" means the period of time for which a  
11 recreational license is valid. The license year begins April 1st, and  
12 ends March 31st.

13 (30) "Limited-entry license" means a license subject to a license  
14 limitation program established in chapter 77.70 RCW.

15 (31) "Money" means all currency, script, personal checks, money  
16 orders, or other negotiable instruments.

17 (32) "Nonresident" means a person who has not fulfilled the  
18 qualifications of a resident.

19 (33) "Offshore waters" means marine waters of the Pacific Ocean  
20 outside the territorial boundaries of the state, including the marine  
21 waters of other states and countries.

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

30 (35) "Owner" means the person in whom is vested the ownership  
31 dominion, or title of the property.

32 (36) "Person" means and includes an individual; a corporation; a  
33 public or private entity or organization; a local, state, or federal  
34 agency; all business organizations, including corporations and  
35 partnerships; or a group of two or more individuals acting with a  
36 common purpose whether acting in an individual, representative, or  
37 official capacity.

1 (37) "Personal property" or "property" includes both corporeal and  
2 incorporeal personal property and includes, among other property,  
3 contraband and money.

4 (38) "Personal use" means for the private use of the individual  
5 taking the fish or shellfish and not for sale or barter.

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

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

11 (41) "Protected wildlife" means wildlife designated by the  
12 commission that shall not be hunted or fished.

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

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

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

24 (45) "Resident" means:

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

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

33 (46) "Retail-eligible species" means commercially harvested salmon,  
34 crab, and sturgeon.

35 (47) "Saltwater" means those marine waters seaward of river mouths.

36 (48) "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 (49) "Senior" means a person seventy years old or older.

5 (50) "Shark fin" means a raw, dried, or otherwise processed  
6 detached fin or tail of a shark.

7 (51)(a) "Shark fin derivative product" means any product intended  
8 for use by humans or animals that is derived in whole or in part from  
9 shark fins or shark fin cartilage.

10 (b) "Shark fin derivative product" does not include a drug approved  
11 by the United States food and drug administration and available by  
12 prescription only or medical device or vaccine approved by the United  
13 States food and drug administration.

14 (52) "Shellfish" means those species of marine and freshwater  
15 invertebrates that have been classified and that shall not be taken  
16 except as authorized by rule of the commission. The term "shellfish"  
17 includes all stages of development and the bodily parts of shellfish  
18 species.

19 (53) "State waters" means all marine waters and fresh waters within  
20 ordinary high water lines and within the territorial boundaries of the  
21 state.

22 (54) "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 (55) "To hunt" and its derivatives means an effort to kill, injure,  
25 capture, or harass a wild animal or wild bird.

26 (56) "To process" and its derivatives mean preparing or preserving  
27 fish, wildlife, or shellfish.

28 (57) "To trap" and its derivatives means a method of hunting using  
29 devices to capture wild animals or wild birds.

30 (58) "Trafficking" means offering, attempting to engage, or  
31 engaging in sale, barter, or purchase of fish, shellfish, wildlife, or  
32 deleterious exotic wildlife.

33 (59) "Unclaimed" means that no owner of the property has been  
34 identified or has requested, in writing, the release of the property to  
35 themselves nor has the owner of the property designated an individual  
36 to receive the property or paid the required postage to effect delivery  
37 of the property.

1 (60) "Unlisted aquatic animal species" means a nonnative animal  
2 species that has not been classified as a prohibited aquatic animal  
3 species, a regulated aquatic animal species, or an unregulated aquatic  
4 animal species by the commission.

5 (61) "Unregulated aquatic animal species" means a nonnative animal  
6 species that has been classified as an unregulated aquatic animal  
7 species by the commission.

8 (62) "Wholesale fish dealer" means a person who, acting for  
9 commercial purposes, takes possession or ownership of fish or shellfish  
10 and sells, barter, or exchanges or attempts to sell, barter, or  
11 exchange fish or shellfish that have been landed into the state of  
12 Washington or entered the state of Washington in interstate or foreign  
13 commerce.

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

19 (64) "Wild birds" means those species of the class Aves whose  
20 members exist in Washington in a wild state.

21 (65) "Wildlife" means all species of the animal kingdom whose  
22 members exist in Washington in a wild state. This includes but is not  
23 limited to mammals, birds, reptiles, amphibians, fish, and  
24 invertebrates. The term "wildlife" does not include feral domestic  
25 mammals, old world rats and mice of the family Muridae of the order  
26 Rodentia, or those fish, shellfish, and marine invertebrates classified  
27 as food fish or shellfish by the director. The term "wildlife"  
28 includes all stages of development and the bodily parts of wildlife  
29 members.

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

32 (67) "Building" means a private domicile, garage, barn, or public  
33 or commercial building.

34 (68) "Food, food waste, or other substance" includes human and pet  
35 food or other waste or garbage that could attract large wild  
36 carnivores.

37 (69) "Intentionally feed, attempt to feed, or attract" means to  
38 purposefully or knowingly provide, leave, or place in, on, or about any

1 land or building any food, food waste, or other substance that attracts  
2 or could attract large wild carnivores to that land or building.  
3 "Intentionally feed, attempt to feed, or attract" does not include  
4 keeping food, food waste, or other substance in an enclosed garbage  
5 receptacle or other enclosed container unless specifically directed by  
6 a fish and wildlife officer or animal control authority to secure the  
7 receptacle or container in another manner.

8 (70) "Large wild carnivore" includes wild bear, cougar, and wolf.

9 (71) "Negligently feed, attempt to feed, or attract" means to  
10 provide, leave, or place in, on, or about any land or building any  
11 food, food waste, or other substance that attracts or could attract  
12 large wild carnivores to that land or building, with the awareness that  
13 a reasonable person in the same situation would have with regard to the  
14 likelihood that the food, food waste, or other substance could attract  
15 large wild carnivores to the land or building. "Negligently feed,  
16 attempt to feed, or attract" does not include keeping food, food waste,  
17 or other substance in an enclosed garbage receptacle or other enclosed  
18 container unless specifically directed by a fish and wildlife officer  
19 or animal control authority to secure the receptacle or container in  
20 another manner.

21 **Sec. 2.** RCW 77.08.030 and 1980 c 78 s 11 are each amended to read  
22 as follows:

23 As used in this title or rules of the commission, "big game" means  
24 the following species:

25

26	<b>Scientific Name</b>	<b>Common Name</b>
27	Cervus canadensis	elk or wapiti
28	Odocoileus hemionus	blacktail deer or mule deer
29	Odocoileus virginianus	whitetail deer
30	Alces americana	moose
31	Oreamnos americanus	mountain goat
32	Rangifer caribou	<u>woodland</u> caribou
33	Ovis canadensis	mountain sheep
34	Antilocapra americana	pronghorn antelope
35	Felis concolor	cougar or mountain lion



1	Euarctos americana	black bear
2	Ursus horribilis	grizzly bear
3	<u>Canis lupis</u>	<u>gray wolf</u>

4 NEW SECTION. **Sec. 3.** A new section is added to chapter 77.36 RCW  
5 to read as follows:

6 (1) The department may not pay more than fifty thousand dollars per  
7 fiscal year from the state wildlife account created in RCW 77.12.170  
8 for claims and assessment costs for injury or loss of commercial  
9 livestock submitted under RCW 77.36.100.

10 (2) The department may accept and expend money from other sources  
11 to address losses or damage to livestock or other property.

12 **Sec. 4.** RCW 77.36.100 and 2009 c 333 s 55 are each amended to read  
13 as follows:

14 (1)(a) Except as limited by RCW 77.36.070 and 77.36.080, the  
15 department shall offer to distribute money appropriated to pay claims  
16 to the owner of commercial crops for damage caused by wild deer or elk  
17 (~~or to the owners of commercial livestock that has been killed by~~  
18 ~~bears, wolves, or cougars, or injured by bears, wolves, or cougars to~~  
19 ~~such a degree that the market value of the commercial livestock has~~  
20 ~~been diminished)). Payments for claims for damage to commercial~~  
21 ~~livestock ((are not subject to the limitations of RCW 77.36.070 and~~  
22 ~~77.36.080, but may not exceed the total amount specifically~~  
23 ~~appropriated therefor)) that have been killed or that have been injured  
24 by large wild carnivores to such a degree that the market value of the  
25 commercial livestock has been diminished, are subject to the  
26 limitations of section 3(1) of this act and may not exceed the total  
27 amount specifically appropriated therefor.~~

28 (b) Owners of commercial crops or commercial livestock are only  
29 eligible for a claim under this subsection if:

30 (i) The owner satisfies the definition of "eligible farmer" in RCW  
31 82.08.855;

32 (ii) The conditions of RCW 77.36.110 have been satisfied; and

33 (iii) The damage caused to the commercial crop or commercial  
34 livestock satisfies the criteria for damage established by the  
35 commission under (c) of this subsection.

1 (c) The commission shall adopt and maintain by rule criteria that  
2 clarifies the damage to commercial crops and commercial livestock  
3 qualifying for compensation under this subsection. An owner of a  
4 commercial crop or commercial livestock must satisfy the criteria prior  
5 to receiving compensation under this subsection. The criteria for  
6 damage adopted under this subsection must include, but not be limited  
7 to, a required minimum economic loss to the owner of the commercial  
8 crop or commercial livestock, which may not be set at a value of less  
9 than five hundred dollars.

10 (2)(a) The department may offer to provide noncash compensation  
11 (~~only~~) to offset wildlife interactions to a person who applies to the  
12 department for compensation for damage to property other than  
13 commercial crops or commercial livestock that is the result of a  
14 mammalian or avian species of wildlife on a case-specific basis if the  
15 conditions of RCW 77.36.110 have been satisfied and if the damage  
16 satisfies the criteria for damage established by the commission under  
17 (b) of this subsection.

18 (b) The commission shall adopt and maintain by rule criteria for  
19 damage to property other than a commercial crop or commercial livestock  
20 that is damaged by wildlife and may be eligible for compensation under  
21 this subsection, including criteria for filing a claim for compensation  
22 under this subsection.

23 (3)(a) To prevent or offset wildlife interactions, the department  
24 may offer materials or services to a person who applies to the  
25 department for assistance in providing mitigating actions designed to  
26 reduce wildlife interactions if the actions are designed to address  
27 damage that satisfies the criteria for damage established by the  
28 commission under this (~~subsection~~) section.

29 (b) The commission shall adopt and maintain by rule criteria for  
30 mitigating actions designed to address wildlife interactions that may  
31 be eligible for materials and services under this section, including  
32 criteria for submitting an application under this section.

33 (4) An owner who files a claim under this section may appeal the  
34 decision of the department pursuant to rules adopted by the commission  
35 if the claim:

36 (a) Is denied; or

37 (b) Is disputed by the owner and the owner disagrees with the  
38 amount of compensation determined by the department.

1       (5) The commission shall adopt rules setting limits and conditions  
2 for the department's expenditures on claims and assessments for  
3 commercial crops, commercial livestock, other property, and mitigating  
4 actions.

5       **Sec. 5.** RCW 77.36.130 and 2009 c 333 s 58 are each amended to read  
6 as follows:

7       (1) Except as otherwise provided in this section and as limited by  
8 RCW 77.36.100, 77.36.070, ~~((and))~~ 77.36.080, and section 3(1) of this  
9 act, the cash compensation portion of each claim by the department  
10 under this chapter is limited to the lesser of:

11       (a) The value of the damage to the property by wildlife, reduced by  
12 the amount of compensation provided to the claimant by any nonprofit  
13 organizations that provide compensation to private property owners due  
14 to financial losses caused by wildlife interactions(~~(, except that,~~  
15 ~~subject to appropriation to pay compensation for damage to commercial~~  
16 ~~livestock,)). The value of killed or injured commercial livestock may~~

17 be no more than two hundred dollars per sheep, one thousand five

18 hundred dollars per head of cattle, and one thousand five hundred

19 dollars per horse; or

20       (b) Ten thousand dollars.

21       (2) The department may offer to pay a claim for an amount in excess  
22 of ten thousand dollars to the owners of commercial crops or commercial  
23 livestock filing a claim under RCW 77.36.100 only if the outcome of an  
24 appeal filed by the claimant under RCW 77.36.100 determines a payment  
25 higher than ten thousand dollars.

26       (3) All payments of claims by the department under this chapter  
27 must be paid to the owner of the damaged property and may not be  
28 assigned to a third party.

29       (4) The burden of proving all property damage, including damage to  
30 commercial crops and commercial livestock, belongs to the claimant.

31       NEW SECTION. **Sec. 6.** A new section is added to chapter 77.15 RCW  
32 to read as follows:

33       (1) A person may not negligently feed or attempt to feed large wild  
34 carnivores or negligently attract large wild carnivores to land or a  
35 building.

1 (2) If a fish and wildlife officer, ex officio fish and wildlife  
2 officer, or animal control authority as defined in RCW 16.30.010, has  
3 probable cause to believe that a person is negligently feeding,  
4 attempting to feed, or attracting large wild carnivores to land or a  
5 building by placing or locating food, food waste, or other substance  
6 in, on, or about any land or building, and the food, food waste, or  
7 other substance poses a risk to the safety of any person, livestock, or  
8 pet because it is attracting or could attract large wild carnivores to  
9 the land or building, that person commits an infraction under chapter  
10 7.84 RCW.

11 (3) Subsection (2) of this section does not apply to:

12 (a) A person who is engaging in forest practices in accordance with  
13 chapter 76.09 RCW or in hunting or trapping wildlife in accordance with  
14 all other applicable provisions of this title or rules of the  
15 commission or the director;

16 (b) A person who is engaging in a farming or ranching operation  
17 that is using generally accepted farming or ranching practices  
18 consistent with Titles 15 and 16 RCW;

19 (c) Waste disposal facilities that are operating in accordance with  
20 applicable federal, state, and municipal laws;

21 (d) Entities listed in RCW 16.30.020(1) (a) through (j) and  
22 scientific collection permit holders; or

23 (e) A fish and wildlife officer or employee or agent of the  
24 department conducting authorized wildlife capture activities.

25 (4) For persons and entities listed in subsection (3) of this  
26 section, a fish and wildlife officer, ex officio fish and wildlife  
27 officer, or animal control authority as defined in RCW 16.30.010, may  
28 issue a written warning to the person or entity if:

29 (a) The officer or animal control authority can articulate facts to  
30 support that the person or entity has placed or is responsible for  
31 placing food, food waste, or other substance in, on, or about the  
32 person's or entity's land or buildings; and

33 (b) The food, food waste, or other substance poses a risk to the  
34 safety of any person, livestock, or pet because the food, food waste,  
35 or other substance is attracting or could attract large wild carnivores  
36 to the land or buildings.

37 (5)(a) Any written warning issued under subsection (4) of this

1 section requires the person or entity placing or otherwise responsible  
2 for placing the food, food waste, or other substance, to contain, move,  
3 or remove that food, food waste, or other substance 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 food, food waste, or  
6 other substance as directed, the person commits an infraction under  
7 chapter 7.84 RCW.

8 NEW SECTION. **Sec. 7.** A new section is added to chapter 77.15 RCW  
9 to read as follows:

10 (1) A person may not intentionally feed or attempt to feed large  
11 wild carnivores or intentionally attract large wild carnivores to land  
12 or a building.

13 (2) A person who intentionally feeds, attempts to feed, or attracts  
14 large wild carnivores to land or a building is guilty of a misdemeanor.

15 (3) A person who is issued an infraction under section 6 of this  
16 act for negligently feeding, attempting to feed, or attracting large  
17 wild carnivores to land or a building, and who fails to contain, move,  
18 or remove the food, food waste, or other substance within twenty-four  
19 hours of being issued the infraction, is guilty of a misdemeanor.

20 **Sec. 8.** RCW 77.15.160 and 2000 c 107 s 237 are each amended to  
21 read as follows:

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

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

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

29 (3) Negligently feeds, attempts to feed, or attract large wild  
30 carnivores in violation of section 6 of this act;

31 (4) Commits any offense designated as an infraction under this  
32 title; or

33 (5) Violates any other rule of the commission or director that is  
34 designated by rule as an infraction.

--- END ---