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SENATE BILL 6271

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State of Washington

62nd Legislature

2012 Regular Session

By Senators Becker, Haugen, Swecker, Hatfield, Shin, Fain, Sheldon, Delvin, Schoesler, Honeyford, and Morton

Read first time 01/16/12. Referred to Committee on Energy, Natural Resources & Marine Waters.

1 AN ACT Relating to removing state and local protections for the  
2 Mazama pocket gopher; amending RCW 77.12.020; adding a new section to  
3 chapter 36.70A RCW; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that in November 2005,  
6 the department of fish and wildlife issued a species status report for  
7 the Mazama pocket gopher that recommended the species be classified as  
8 threatened, meaning the species was likely to become endangered in the  
9 foreseeable future. In 2006, the fish and wildlife commission  
10 classified the Mazama pocket gopher as threatened. Such a  
11 classification requires the department of fish and wildlife to write a  
12 recovery plan and conduct a species status review of the species at  
13 least every five years after the listing. Since listing the Mazama  
14 pocket gopher for state protection, the department of fish and wildlife  
15 has failed to conduct an updated status report or a recovery plan for  
16 the gopher as required by law. In the meantime, local jurisdictions  
17 planning under the growth management act have proposed or implemented,  
18 or both, stringent development regulations burdening property owners in  
19 order to protect the gopher. The legislature finds that scientific

1 studies have not shown that the Mazama pocket gopher is likely to  
2 become endangered in the foreseeable future and thus the species does  
3 not warrant protection by the state.

4 **Sec. 2.** RCW 77.12.020 and 2002 c 281 s 3 are each amended to read  
5 as follows:

6 (1) The director shall investigate the habits and distribution of  
7 the various species of wildlife native to or adaptable to the habitats  
8 of the state. The commission shall determine whether a species should  
9 be managed by the department and, if so, classify it under this  
10 section.

11 (2) The commission may classify by rule wild animals as game  
12 animals and game animals as fur-bearing animals.

13 (3) The commission may classify by rule wild birds as game birds or  
14 predatory birds. All wild birds not otherwise classified are protected  
15 wildlife.

16 (4) In addition to those species listed in RCW 77.08.020, the  
17 commission may classify by rule as game fish other species of the class  
18 Osteichthyes that are commonly found in freshwater except those  
19 classified as food fish by the director.

20 (5) The director may recommend to the commission that a species of  
21 wildlife should not be hunted or fished. The commission may designate  
22 species of wildlife as protected.

23 (6) If the director determines that a species of wildlife is  
24 seriously threatened with extinction in the state of Washington, the  
25 director may request its designation as an endangered species. The  
26 commission may designate an endangered species. However, the  
27 commission may not classify the Mazama pocket gopher (*Thomomys mazama*)  
28 as a threatened or endangered species.

29 (7) If the director determines that a species of the animal  
30 kingdom, not native to Washington, is dangerous to the environment or  
31 wildlife of the state, the director may request its designation as  
32 deleterious exotic wildlife. The commission may designate deleterious  
33 exotic wildlife.

34 (8) Upon recommendation by the director, the commission may  
35 classify nonnative aquatic animal species according to the following  
36 categories:

1 (a) Prohibited aquatic animal species: These species are  
2 considered by the commission to have a high risk of becoming an  
3 invasive species and may not be possessed, imported, purchased, sold,  
4 propagated, transported, or released into state waters except as  
5 provided in RCW 77.15.253;

6 (b) Regulated aquatic animal species: These species are considered  
7 by the commission to have some beneficial use along with a moderate,  
8 but manageable risk of becoming an invasive species, and may not be  
9 released into state waters, except as provided in RCW 77.15.253. The  
10 commission shall classify the following commercial aquaculture species  
11 as regulated aquatic animal species, and allow their release into state  
12 waters pursuant to rule of the commission: Pacific oyster (*Crassostrea*  
13 *gigas*), kumamoto oyster (*Crassostrea sikamea*), European flat oyster  
14 (*Ostrea edulis*), eastern oyster (*Crassostrea virginica*), manila clam  
15 (*Tapes philippinarum*), blue mussel (*Mytilus galloprovincialis*), and  
16 suminoe oyster (*Crassostrea ariankensis*);

17 (c) Unregulated aquatic animal species: These species are  
18 considered by the commission as having some beneficial use along with  
19 a low risk of becoming an invasive species, and are not subject to  
20 regulation under this title;

21 (d) Unlisted aquatic animal species: These species are not  
22 designated as a prohibited aquatic animal species, regulated aquatic  
23 animal species, or unregulated aquatic animal species by the  
24 commission, and may not be released into state waters. Upon request,  
25 the commission may determine the appropriate category for an unlisted  
26 aquatic animal species and classify the species accordingly;

27 (e) This subsection (8) does not apply to the transportation or  
28 release of nonnative aquatic animal species by ballast water or ballast  
29 water discharge.

30 (9) Upon recommendation by the director, the commission may develop  
31 a work plan to eradicate native aquatic species that threaten human  
32 health. Priority shall be given to water bodies that the department of  
33 health has classified as representing a threat to human health based on  
34 the presence of a native aquatic species.

35 NEW SECTION. **Sec. 3.** A new section is added to chapter 36.70A RCW  
36 to read as follows:

1           Cities and counties may not apply critical areas ordinances under  
2 RCW 36.70A.060(2) to protect the Mazama pocket gopher (*Thomomys*  
3 *mazama*).

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