
THIRD SUBSTITUTE HOUSE BILL 1118

State of Washington 64th Legislature 2016 Regular Session

By House Agriculture & Natural Resources (originally sponsored by Representative Blake)

READ FIRST TIME 01/25/16.

1 AN ACT Relating to creating cost savings by providing
2 administrative flexibility to the department of fish and wildlife in
3 its implementation of Title 77 RCW while not directing any changes to
4 resource management outcomes; amending RCW 77.04.012, 77.04.120,
5 77.04.150, 77.04.160, 77.12.068, 77.12.184, 77.12.360, 77.12.451,
6 77.12.670, 77.12.702, 77.12.755, 77.12.820, 77.12.880, 77.15.110,
7 77.15.245, 77.15.370, 77.15.400, 77.15.420, 77.15.620, 77.55.141,
8 77.55.241, 77.57.040, 77.57.060, 77.60.170, 77.70.010, 77.70.210,
9 77.70.280, 77.70.360, 77.70.390, 77.85.020, 77.85.040, 77.85.130,
10 77.85.160, 77.85.220, 77.85.230, 77.95.020, 77.95.090, 77.95.190,
11 77.95.200, 77.95.230, 77.100.050, 77.100.060, and 77.115.010;
12 reenacting and amending RCW 77.08.045 and 77.85.140; and repealing
13 RCW 77.12.605, 77.12.690, 77.12.710, and 77.65.900.

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

15 **Sec. 1.** RCW 77.04.012 and 2000 c 107 s 2 are each amended to
16 read as follows:

17 (1) Wildlife, fish, and shellfish are the property of the state.
18 The commission, director, and the department shall preserve, protect,
19 perpetuate, and manage the wildlife and food fish, game fish, and
20 shellfish in state waters and offshore waters.

1 (2) The department shall conserve the wildlife and food fish,
2 game fish, and shellfish resources in a manner that does not impair
3 the resource. In a manner consistent with this goal, the department
4 shall seek to maintain the economic well-being and stability of the
5 fishing industry in the state. The department shall promote orderly
6 fisheries and shall enhance and improve recreational and commercial
7 fishing in this state.

8 (3) The commission may authorize the taking of wildlife, food
9 fish, game fish, and shellfish only at times or places, or in manners
10 or quantities, as in the judgment of the commission does not impair
11 the supply of these resources.

12 (4) The commission shall attempt to maximize the public
13 recreational game fishing and hunting opportunities of all citizens,
14 including juveniles, ~~((disabled))~~ individuals with disabilities, and
15 senior citizens.

16 (5) Recognizing that the management of our state wildlife, food
17 fish, game fish, and shellfish resources depends heavily on the
18 assistance of volunteers, the department shall work cooperatively
19 with volunteer groups and individuals to achieve the goals of this
20 title to the greatest extent possible.

21 (6) Nothing in this title shall be construed to infringe on the
22 right of a private property owner to control the owner's private
23 property.

24 **Sec. 2.** RCW 77.04.120 and 2000 c 107 s 3 are each amended to
25 read as follows:

26 (1) The director shall investigate the habits, supply, and
27 economic use of food fish and shellfish in state and offshore waters.

28 (2) The director shall ~~((make an annual))~~ report annually to the
29 governor on the operation of the department and ~~((the))~~ statistics
30 ~~((of))~~ relating to the fishing industry.

31 (3) Subject to RCW 40.07.040 and consistent with RCW 43.01.036,
32 the director shall provide a ~~((comprehensive))~~ biennial report of all
33 departmental operations to the ~~((chairs of the committees on natural
34 resources of the senate and house of representatives, the senate ways
35 and means committee, and the house of representatives appropriations
36 committee, including one copy to the staff of each of the committees,
37 to reflect the previous fiscal period. The format of the report shall
38 be similar to reports issued by the department from 1964-1970 and the
39 report shall include, but not be limited to, descriptions of all~~

1 ~~department activities including: Revenues generated, program costs,~~
2 ~~capital expenditures, personnel, special projects, new and ongoing~~
3 ~~research, environmental controls, cooperative projects,~~
4 ~~intergovernmental agreements, and outlines of ongoing litigation,~~
5 ~~recent court decisions and orders on major issues with the potential~~
6 ~~for state liability. The report shall describe the status of the~~
7 ~~resource and its recreational, commercial, and tribal utilization.~~
8 ~~The report shall)) legislature. The report must be made available to~~
9 the public.

10 **Sec. 3.** RCW 77.04.150 and 2008 c 294 s 1 are each amended to
11 read as follows:

12 (1) The commission must appoint an advisory committee to
13 generally represent the interests of hunters and fishers with
14 disabilities on matters including, but not limited to, special hunts,
15 modified sporting equipment, access to public land, and hunting and
16 fishing opportunities. The advisory committee ~~((is))~~ may not be
17 composed of more than seven members, each being an individual with a
18 disability. The advisory committee members must represent the entire
19 state. ~~((The members must be appointed so that each of the six~~
20 ~~department administrative regions, as they existed on January 1,~~
21 ~~2007, are represented with one resident on the advisory committee.~~
22 ~~One additional member must be appointed at large. The chair of the~~
23 ~~advisory committee must be a member of the advisory committee and~~
24 ~~shall be selected by the members of the advisory committee.))~~

25 (2) For the purposes of this section, an individual with a
26 disability includes but is not limited to:

27 (a) An individual with a permanent disability who is not
28 ambulatory over natural terrain without a prosthesis or assistive
29 device;

30 (b) An individual with a permanent disability who is unable to
31 walk without the use of assistance from a brace, cane, crutch,
32 wheelchair, scooter, walker, or other assistive device;

33 (c) An individual who has a cardiac condition to the extent that
34 the individual's functional limitations are severe;

35 (d) An individual who is restricted by lung disease to the extent
36 that the individual's functional limitations are severe;

37 (e) An individual who is totally blind or visually impaired; or

1 (f) An individual with a permanent disability with upper or lower
2 extremity impairments who does not have the use of one or both upper
3 or lower extremities.

4 (3) The members of the advisory committee are appointed for not
5 more than a four-year term. If a vacancy occurs on the advisory
6 committee prior to the expiration of a term, the commission must
7 appoint a replacement (~~((within sixty days))~~) to complete the term.

8 (4) The advisory committee must meet at least semiannually, and
9 may meet at other times as requested by a majority of the advisory
10 committee members for any express purpose that directly relates to
11 the duties set forth in subsection (1) of this section. A majority of
12 members currently serving on the advisory committee constitutes a
13 quorum. The department must provide staff support for all official
14 advisory committee meetings.

15 (5) Each member of the advisory committee shall serve without
16 compensation but may be reimbursed for travel expenses as authorized
17 in RCW 43.03.050 and 43.03.060.

18 (6) The members of the advisory committee, or individuals acting
19 on their behalf, are immune from civil liability for official acts
20 performed in the course of their duties.

21 (~~((7) Beginning December 1, 2011, and again at least once every~~
22 ~~four years, the commission shall present a report to the appropriate~~
23 ~~legislative committees detailing the effectiveness of the advisory~~
24 ~~committee including, but not limited to, the participation levels,~~
25 ~~general interest, quality of advice, and recommendations as to the~~
26 ~~advisory committee's continuance or modification.))~~

27 **Sec. 4.** RCW 77.04.160 and 2001 c 337 s 5 are each amended to
28 read as follows:

29 (1) The department shall (~~((prepare an annual))~~) annually provide
30 information to the recreation and conservation office regarding
31 surplus salmon (~~((report))~~). (~~((This report shall))~~) The information must
32 include the disposition of adult salmonids that have returned to
33 salmonid hatchery facilities operated under the jurisdiction of the
34 state that:

35 (a) Have not been harvested; and

36 (b) Were not allowed to escape for natural spawning.

37 (2) The (~~((report))~~) information shall include, by species, the
38 number and estimated weight of surplus salmon and steelhead and a

1 description of the disposition of the adult carcasses including, but
2 not limited to, the following categories:

3 (a) Disposed in landfills;

4 (b) Transferred to another government agency for reproductive
5 purposes;

6 (c) Sold to contract buyers in the round;

7 (d) Sold to contract buyers after spawning;

8 (e) Transferred to Native American tribes;

9 (f) Donated to food banks; and

10 (g) Used in stream nutrient enrichment programs.

11 (3) The ~~((report shall))~~ information must also include, by
12 species, information on the number of requests for viable salmon
13 eggs, the number of these requests that were granted and the number
14 that were denied, the geographic areas for which these requests were
15 granted or denied, and a brief explanation given for each denial of a
16 request for viable salmon eggs.

17 (4) The ~~((report shall be))~~ information provided to the
18 recreation and conservation office under this section must be
19 included in the biennial ~~((state of the salmon))~~ report ~~((required by~~
20 ~~RCW 77.85.020 and other similar state reports on salmon))~~ on the
21 statewide status of salmon recovery and watershed health required
22 under RCW 77.85.020.

23 (5) The ~~((report shall))~~ information must include an assessment
24 of the infrastructure needs and facility modifications necessary to
25 implement chapter 337, Laws of 2001.

26 **Sec. 5.** RCW 77.12.068 and 2008 c 225 s 4 are each amended to
27 read as follows:

28 (1) The department and the state parks and recreation commission
29 shall disseminate information about RCW 77.15.740, whale and wildlife
30 viewing guidelines, and other responsible wildlife viewing messages
31 to educate Washington's citizens on how to reduce the risk of
32 disturbing southern resident orca whales. ~~((The department and the~~
33 state parks and recreation commission must, at minimum, disseminate))
34 This information ~~((on their))~~ must, at a minimum, be disseminated
35 through the agencies' internet sites ~~((and through)),~~ appropriate
36 agency publications ~~((, brochures)),~~ and other information sources
37 deemed appropriate by either agency.

38 (2) The department and the state parks and recreation commission
39 ~~((shall))~~ should also attempt to reach the state's boating community

1 by coordinating with appropriate state and nongovernmental entities
2 to provide ~~((this))~~ the information pursuant to this section at
3 marinas, boat shows, boat dealers, during boating safety training
4 courses, and in conjunction with vessel registration or licensing.

5 **Sec. 6.** RCW 77.12.184 and 2009 c 333 s 31 are each amended to
6 read as follows:

7 (1) The department shall deposit all moneys received from the
8 following activities into the state wildlife account created in RCW
9 77.12.170:

10 (a) The sale of interpretive, recreational, historical,
11 educational, and informational literature and materials;

12 (b) The sale of advertisements in regulation pamphlets and other
13 appropriate mediums; ~~((and))~~

14 (c) Enrollment fees in department-sponsored educational training
15 events; and

16 (d) Fees for accessing mobile device applications, or information
17 on mobile device applications, developed by or for the department
18 that provides user content such as licensing, harvest recording and
19 reporting, and access to regulations and information.

20 ~~((Moneys collected under subsection (1) of this section shall~~
21 ~~be spent primarily for producing regulation booklets for users and~~
22 ~~for the development, production, reprinting, and distribution of~~
23 ~~informational and educational materials. The department may also~~
24 ~~spend these moneys for necessary expenses associated with training~~
25 ~~activities, and other activities as determined by the director.~~

26 ~~(3))~~ Regulation and education pamphlets may be subsidized
27 through appropriate advertising, but must be made available free of
28 charge to the users unless the information is provided through a
29 mobile device application.

30 ~~((4))~~ (3) The director may enter into joint ventures with other
31 agencies and organizations to generate revenue for providing public
32 information and education on wildlife ~~((and))~~, hunting ~~((and))~~,
33 fishing ~~((rules))~~, and recreation.

34 **Sec. 7.** RCW 77.12.360 and 1980 c 78 s 54 are each amended to
35 read as follows:

36 Upon written request of the department, the department of natural
37 resources may withdraw from lease state-owned lands described in the
38 request. The request shall bear the endorsement of the county

1 legislative authority if the lands were acquired under RCW
2 (~~76.12.030 or 76.12.080~~) 79.22.040 or 79.22.020. Withdrawals shall
3 conform to the state outdoor recreation plan. If the lands are held
4 for the benefit of the common school fund or another fund, the
5 department shall pay compensation equal to the lease value of the
6 lands to the appropriate fund.

7 **Sec. 8.** RCW 77.12.451 and 2015 c 225 s 115 are each amended to
8 read as follows:

9 (1) The director may take or remove any species of fish or
10 shellfish from the waters or beaches of the state.

11 (2) The director may sell food fish or shellfish caught or taken
12 during department test fishing operations.

13 (3) The director shall not sell inedible salmon for human
14 consumption. Salmon and carcasses may be given to state institutions
15 or schools or to economically depressed people, unless the salmon are
16 unfit for human consumption. Salmon not fit for human consumption may
17 be sold by the director for animal food, fish food, or for industrial
18 purposes.

19 (4)(a) In the sale of surplus salmon from state hatcheries, (~~the~~
20 ~~director shall require that~~) a portion of the surplus salmon must be
21 processed and returned to the state by the purchaser. The processed
22 salmon (~~shall~~) must be fit for human consumption and in a form
23 suitable for distribution to individuals.

24 (b) The (~~department shall establish the~~) required percentage of
25 surplus salmon that must be processed and returned to the state must
26 be set at a level that does not discourage competitive bidding for
27 the surplus salmon. The measure of the percentage is the combined
28 value of all of the surplus salmon sold.

29 (c) The department of social and health services shall distribute
30 the processed salmon to economically depressed individuals and state
31 institutions pursuant to rules adopted by the department of social
32 and health services.

33 **Sec. 9.** RCW 77.08.045 and 2011 1st sp.s. c 21 s 17 and 2011 c
34 339 s 2 are each reenacted and amended to read as follows:

35 As used in this title or rules adopted pursuant to this title:

36 (1) "Migratory waterfowl" means members of the family Anatidae,
37 including (~~brants,~~) ducks, geese, and swans;

1 (2) "Migratory bird" means migratory game birds, including
2 migratory waterfowl and coots, snipe, doves, and band-tailed pigeon;

3 (3) "Migratory bird permit" means the permit that is required by
4 RCW 77.32.350 to be in the possession of all persons to hunt
5 migratory birds; and

6 (4) (~~("Prints and artwork")~~) "Migratory bird artwork" means the
7 stamps, prints, and other replicas of the original stamp design that
8 are sold to the general public. (~~(Prints and artwork)~~) Migratory bird
9 stamps are not to be construed to be the migratory bird permits that
10 (~~(is)~~) are required by RCW 77.32.350. (~~(Artwork may be any facsimile~~
11 ~~of the original stamp design, including color renditions, metal~~
12 ~~duplications, or any other kind of design.)~~)

13 **Sec. 10.** RCW 77.12.670 and 2011 1st sp.s. c 21 s 15 are each
14 amended to read as follows:

15 (1) (~~(Beginning July 1, 2011, the department, after soliciting~~
16 ~~recommendations from the public, shall select the design for the~~
17 ~~migratory bird stamp.~~

18 ~~(2))~~) All revenue derived from the sale of migratory bird
19 (~~(license validations or stamps by the department to any person~~
20 ~~hunting waterfowl or to any stamp collector)~~) permits shall be
21 deposited in the state wildlife account and shall be used only (~~(for~~
22 ~~that portion of the cost of printing and production of the stamps)~~)
23 for:

24 (~~(migratory waterfowl hunters as determined by subsection (4) of~~
25 ~~this section, and for those)~~)

26 (a) Migratory (~~(waterfowl)~~) bird projects specified by the
27 director of the department for the acquisition and development of
28 migratory (~~(waterfowl)~~) bird habitat in the state; and

29 (~~(for)~~) (b) The enhancement, protection, and propagation of
30 migratory (~~(waterfowl)~~) birds in the state.

31 (2) Migratory bird (~~(license validation and stamp)~~) permit funds
32 may not be used on lands controlled by private hunting clubs or on
33 private lands that charge a fee for public access. Migratory bird
34 (~~(license validation and stamp)~~) permit funds may be used for
35 migratory (~~(waterfowl)~~) bird projects on private land where public
36 hunting is provided by written permission or on areas established by
37 the department as (~~(waterfowl)~~) hunting closures.

38 (3) (~~(All revenue derived from the sale of the license validation~~
39 ~~and stamp by the department to persons hunting solely nonwaterfowl~~

1 migratory birds shall be deposited in the state wildlife account and
2 shall be used only for that portion of the cost of printing and
3 production of the stamps for nonwaterfowl migratory bird hunters as
4 determined by subsection (4) of this section, and for those
5 nonwaterfowl migratory bird projects specified by the director for
6 the acquisition and development of nonwaterfowl migratory bird
7 habitat in the state and for the enhancement, protection, and
8 propagation of nonwaterfowl migratory birds in the state.

9 (4) With regard to the revenue from license validation and stamp
10 sales that is not the result of sales to stamp collectors, the
11 department shall determine the proportion of migratory waterfowl
12 hunters and solely nonwaterfowl migratory bird hunters by using the
13 yearly migratory bird hunter harvest information program survey
14 results or, in the event that these results are not available, other
15 similar survey results. A two-year average of the most recent survey
16 results shall be used to determine the proportion of the revenue
17 attributed to migratory waterfowl hunters and the proportion
18 attributed to solely nonwaterfowl migratory bird hunters for each
19 fiscal year. For fiscal year 1998-99 and for fiscal year 1999-2000,
20 ninety six percent of the stamp revenue shall be attributed to
21 migratory waterfowl hunters and four percent of the stamp revenue
22 shall be attributed to solely nonwaterfowl migratory game hunters.

23 (5)) Acquisition shall include but not be limited to the
24 acceptance of gifts of real estate or any interest therein or the
25 rental, lease, or purchase of real estate or any interest therein. If
26 the department acquires any fee interest, leasehold, or rental
27 interest in real property under this section, it shall allow the
28 general public reasonable access to that property and shall, if
29 appropriate, ensure that the deed or other instrument creating the
30 interest allows such access to the general public. If the department
31 obtains a covenant in real property in its favor or an easement or
32 any other interest in real property under this section, it shall
33 exercise its best efforts to ensure that the deed or other instrument
34 creating the interest grants to the general public in the form of a
35 covenant running with the land reasonable access to the property. The
36 private landowner from whom the department obtains such a covenant or
37 easement shall retain the right of granting access to the lands by
38 written permission, but may not charge a fee for access.

1 ~~((6) The department may produce migratory bird stamps in any~~
2 ~~given year in excess of those necessary for sale in that year. The~~
3 ~~excess stamps may be sold to the public.))~~

4 (4) The selection of the annual migratory bird artwork design and
5 the administration, sale, distribution, and other matters relating to
6 the artwork is the responsibility of the department. The department
7 may contract with an appropriate individual or nonprofit organization
8 for selection of the annual migratory bird artwork design and the
9 administration, sale, distribution, and other matters relating to
10 migratory bird artwork.

11 (5) The costs of producing and marketing artwork may be paid out
12 of the total amount brought in from sales of artwork. The remaining
13 amount may only be used to contract with one or more appropriate
14 individuals or nonprofit organizations for the development of
15 waterfowl propagation projects within Washington. The department may
16 not contract with any individual or organization that obtains
17 compensation for allowing waterfowl hunting except if the individual
18 or organization does not require compensation for hunting on the
19 subject property.

20 **Sec. 11.** RCW 77.12.702 and 2007 c 442 s 2 are each amended to
21 read as follows:

22 (1) The department is directed to develop and implement a
23 rockfish research and stock assessment program. Using funds from the
24 rockfish research account created in subsection (2) of this section,
25 the department must conduct Puget Sound basin and coastal surveys
26 ~~((with new and existing technology))~~ to estimate the current
27 abundance and future recovery of rockfish populations and other
28 groundfish species. The stock assessment must include an evaluation
29 of the potential for marine fish enhancement. ~~((Beginning December~~
30 ~~2008, and every two years thereafter,))~~ The department shall report
31 to ((the appropriate committees of)) the legislature, consistent with
32 RCW 43.01.036, on the status of the stock assessment program every
33 two years.

34 (2) The rockfish research account is created in the custody of
35 the state treasurer. All receipts from surcharges assessed on
36 commercial and recreational fishing licenses for the purposes of
37 rockfish research must be deposited into the account. Expenditures
38 from the account may be used only for rockfish research, including
39 stock assessments. Only the director of the department or the

1 director's designee may authorize expenditures from the account. The
2 account is subject to allotment procedures under chapter 43.88 RCW,
3 but an appropriation is not required for expenditures.

4 **Sec. 12.** RCW 77.12.755 and 2003 c 311 s 10 are each amended to
5 read as follows:

6 (1) In coordination with the department of natural resources and
7 lead entity groups, the department must establish a ranked inventory
8 of fish passage barriers on land owned by small forest landowners
9 based on the principle of fixing the worst first within a watershed
10 consistent with the fish passage priorities of the forest and fish
11 report.

12 (2) In implementing this section, the department shall first
13 gather and synthesize all available existing information about the
14 locations and impacts of fish passage barriers in Washington. This
15 information must include, but not be limited to, the most recently
16 available limiting factors analysis conducted pursuant to RCW
17 77.85.060(2), the stock status information contained in the
18 department (~~(of fish and wildlife)~~) salmonid stock inventory
19 (~~(SASSI)~~) (SaSI), the salmon and steelhead habitat inventory and
20 assessment project (SSHIAP), and any comparable science-based
21 assessment when available.

22 (3) The inventory of fish passage barriers developed under this
23 section must be kept reasonably current (~~(and at a minimum be updated~~
24 ~~by the beginning of each calendar year)) as the director of the
25 department determines funding allows.~~

26 (4) Nothing in this section grants the department or others
27 additional right of entry onto private property.

28 **Sec. 13.** RCW 77.12.820 and 2009 c 333 s 52 are each amended to
29 read as follows:

30 (1) The eastern Washington pheasant enhancement account is
31 created in the custody of the state treasurer. All receipts under RCW
32 77.12.810 must be deposited in the account. Moneys in the account are
33 subject to legislative appropriation and shall be used for the
34 purpose of funding (~~(the)~~) an eastern Washington pheasant enhancement
35 program.

36 (2) The department may use moneys from the eastern Washington
37 pheasant enhancement account to improve pheasant habitat (~~(or)~~) to
38 purchase or produce pheasants (~~(. The department must)~~) and to

1 continue to release rooster pheasants in eastern Washington. The
2 eastern Washington pheasant enhancement account funds (~~must~~) may
3 not be used for the purchase of land.

4 (3) The eastern Washington pheasant enhancement account may be
5 used to offer grants to improve pheasant habitat on public or private
6 lands that are open to public hunting.

7 (4) The department may enter partnerships with private
8 landowners, nonprofit corporations, cooperative groups, and federal
9 or state agencies for the purposes of pheasant habitat enhancement in
10 areas that will be available for public hunting.

11 (5) The department shall (~~submit an annual report to the~~
12 ~~appropriate committees of the legislature by December 1st~~) make
13 information regarding the department's eastern Washington pheasant
14 activities available upon request.

15 **Sec. 14.** RCW 77.12.880 and 2003 c 153 s 3 are each amended to
16 read as follows:

17 The department shall, when deemed appropriate by the department,
18 manage wildlife programs in a manner that provides for public
19 opportunities to view wildlife and supports nature-based and wildlife
20 viewing tourism without impairing the state's wildlife resources.

21 **Sec. 15.** RCW 77.15.110 and 2012 c 176 s 13 are each amended to
22 read as follows:

23 (1) For purposes of this chapter, a person acts for commercial
24 purposes if the person engages in conduct that relates to commerce in
25 fish, seaweed, shellfish, or wildlife or any parts thereof.
26 Commercial conduct may include taking, delivering, selling, buying,
27 or trading fish, seaweed, shellfish, or wildlife where there is
28 present or future exchange of money, goods, or any valuable
29 consideration. Evidence that a person acts for commercial purposes
30 includes, but is not limited to, the following conduct:

31 (a) Using gear typical of that used in commercial fisheries;

32 (b) Exceeding the bag or possession limits for personal use by
33 taking or possessing more than three times the amount of fish,
34 seaweed, shellfish, or wildlife allowed;

35 (c) Delivering or attempting to deliver fish, seaweed, shellfish,
36 or wildlife to a person who sells or resells fish, seaweed,
37 shellfish, or wildlife including any licensed or unlicensed
38 wholesaler;

1 (d) Taking fish or shellfish using a vessel designated on a
2 commercial fishery license or using gear not authorized in a personal
3 use fishery;

4 (e) Using a commercial fishery license;

5 (f) Selling or dealing in raw furs for a fee or in exchange for
6 goods or services;

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

10 (h) Packs, cuts, processes, or stores the meat of wildlife for
11 consumption, for a fee or in exchange for goods or services.

12 (2) For purposes of this chapter, the value of any fish, seaweed,
13 shellfish, or wildlife may be proved based on evidence of legal or
14 illegal sales involving the person charged or any other person, of
15 offers to sell or solicitation of offers to sell by the person
16 charged or by any other person, or of any market price for the fish,
17 seaweed, shellfish, or wildlife including market price for farm-
18 raised game animals. The value assigned to specific fish, seaweed,
19 shellfish, or wildlife by RCW 77.15.420 or 77.15.370 may be presumed
20 to be the value of such fish, seaweed, shellfish, or wildlife. It is
21 not relevant to proof of value that the person charged misrepresented
22 that the fish, seaweed, shellfish, or wildlife was taken in
23 compliance with law if the fish, seaweed, shellfish, or wildlife was
24 unlawfully taken and had no lawful market value.

25 **Sec. 16.** RCW 77.15.245 and 2005 c 107 s 1 are each amended to
26 read as follows:

27 (1) Notwithstanding the provisions of RCW 77.12.240,
28 (~~77.36.020,~~) 77.36.030, or any other provisions of law, it is
29 unlawful to take, hunt, or attract black bear with the aid of bait.

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

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

38 (c) Nothing in this subsection shall be construed to prohibit the
39 director from issuing a permit or memorandum of understanding to a

1 public agency, university, or scientific or educational institution
2 for the use of bait to attract black bear for scientific purposes.

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

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

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

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

23 (c) Nothing in this subsection shall be construed to prohibit the
24 director from issuing a permit or memorandum of understanding to a
25 public agency, university, or scientific or educational institution
26 for the use of a dog or dogs for the killing of black bear, cougar,
27 or bobcat, for the protection of a state and/or federally listed
28 threatened or endangered species.

29 (3)(a) Notwithstanding subsection (2) of this section, the
30 commission shall authorize the use of dogs only in selected areas
31 within a game management unit to address a public safety need
32 presented by one or more cougar. This authority may only be exercised
33 after the commission has determined that no other practical
34 alternative to the use of dogs exists, and after the commission has
35 adopted rules describing the conditions in which dogs may be used.
36 Conditions that may warrant the use of dogs within a game management
37 unit include, but are not limited to, confirmed cougar/human safety
38 incidents, confirmed cougar/livestock and cougar/pet depredations,
39 and the number of cougar capture attempts and relocations.

1 (b) The department shall post on their internet web site the
2 known details of all reported cougar/human, cougar/pet, or cougar/
3 livestock interactions within ten days of receiving the report. The
4 posted material must include, but is not limited to, the location and
5 time of all reported sightings, and the known details of any cougar/
6 livestock incidents.

7 (4) A person who violates subsection (1) or (2) of this section
8 is guilty of a gross misdemeanor. In addition to appropriate criminal
9 penalties, the department shall revoke the hunting license of a
10 person who violates subsection (1) or (2) of this section and order
11 the suspension of wildlife hunting privileges for a period of five
12 years following the revocation. Following a subsequent violation of
13 subsection (1) or (2) of this section by the same person, a hunting
14 license shall not be issued to the person at any time.

15 **Sec. 17.** RCW 77.15.370 and 2014 c 48 s 13 are each amended to
16 read as follows:

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

19 (a) The person takes or possesses two times or more than the bag
20 limit or possession limit of fish or shellfish allowed by any rule of
21 the director or commission setting the amount of food fish, game
22 fish, or shellfish that can be taken or possessed for noncommercial
23 use;

24 (b) The person fishes in a fishway;

25 (c) The person shoots, gaffs, snags, snares, spears, dipnets, or
26 stones fish or shellfish in state waters, or possesses fish or
27 shellfish taken by such means, unless such means are authorized by
28 express department rule;

29 (d) The person fishes for or possesses a fish listed as
30 threatened or endangered in 50 C.F.R. Sec. 223.102 (2006) or Sec.
31 224.101 (2010), unless fishing for or possessing such fish is
32 specifically allowed under federal or state law;

33 (e) The person possesses a white sturgeon measuring in excess of
34 the maximum size limit as established by rules adopted by the
35 department;

36 (f) The person possesses a green sturgeon of any size; or

37 (g)(i) The person possesses a wild salmon or wild steelhead
38 during a season closed for wild salmon or wild steelhead.

39 (ii) For the purposes of this subsection:

1 (A) "Wild salmon" means a salmon with an unclipped adipose fin,
2 regardless of whether the salmon's ventral fin is clipped. A salmon
3 is considered to have an unclipped adipose fin if it does not have a
4 healed scar at the location of the clipped adipose fin.

5 (B) "Wild steelhead" means a steelhead with no fins clipped.

6 (2) Unlawful recreational fishing in the first degree is a gross
7 misdemeanor.

8 (3) In addition to the penalties set forth in subsection (2) of
9 this section, if a person is convicted of violating this section and
10 the violation results in the death of fish listed in this subsection,
11 the court shall require payment of the following amounts for each
12 fish taken or possessed. This is a criminal wildlife penalty
13 assessment that must be paid to the clerk of the court and
14 distributed each month to the state treasurer for deposit in the fish
15 and wildlife enforcement reward account created in RCW 77.15.425:

16 (a) White sturgeon longer than fifty-five inches in fork length,
17 two thousand dollars;

18 (b) Green sturgeon, two thousand dollars; and

19 (c) Wild salmon or wild steelhead, five hundred dollars.

20 (4) If two or more persons are convicted under subsection (1) of
21 this section, and subsection (3) of this section is applicable, the
22 criminal wildlife penalty assessment must be imposed against the
23 persons jointly and severally.

24 (5)(a) The criminal wildlife penalty assessment under subsection
25 (3) of this section must be imposed regardless of and in addition to
26 any sentence, fines, or costs otherwise provided for violating any
27 provision of this section. The criminal wildlife penalty assessment
28 must be included by the court in any pronouncement of sentence and
29 may not be suspended, waived, modified, or deferred in any respect.

30 (b) This subsection may not be construed to abridge or alter
31 alternative rights of action or remedies in equity or under common
32 law or statutory law, criminal or civil.

33 (6) A defaulted criminal wildlife penalty assessment authorized
34 under subsection (3) of this section may be collected by any means
35 authorized by law for the enforcement of orders of the court or
36 collection of a fine or costs, including but not limited to vacation
37 of a deferral of sentencing or vacation of a suspension of sentence.

38 (7) The department shall revoke the fishing license and suspend
39 the fishing privileges of a person assessed a criminal wildlife
40 penalty assessment under this section until the penalty assessment is

1 paid through the registry of the court in which the penalty
2 assessment was assessed.

3 (8) The criminal wildlife penalty assessments provided in
4 subsection (3) of this section must be doubled in the following
5 instances:

6 (a) When a person commits a violation that requires payment of a
7 criminal wildlife penalty assessment within five years of a prior
8 gross misdemeanor or felony conviction under this title; or

9 (b) When the trier of fact determines that the person took or
10 possessed the fish in question with the intent of bartering, selling,
11 or otherwise deriving economic profit from the fish or fish parts.

12 **Sec. 18.** RCW 77.15.400 and 2012 c 176 s 25 are each amended to
13 read as follows:

14 (1) A person is guilty of unlawful hunting of wild birds in the
15 second degree if the person hunts for wild birds and, whether or not
16 the person possesses wild birds, the person has not purchased the
17 appropriate hunting license, tags, stamps, and permits issued to
18 Washington residents or nonresidents under chapter 77.32 RCW.

19 (2) A person is guilty of unlawful hunting of wild birds in the
20 second degree if the person takes or possesses less than two times
21 the bag or possession limit of wild birds and the person:

22 (a) Owns, but does not have in the person's possession, all
23 licenses, tags, stamps, and permits required under this title; or

24 (b) Violates any department rule regarding seasons, bag or
25 possession limits, closed areas, closed times, or the manner or
26 method of hunting or possession of wild birds.

27 (3) A person is guilty of unlawful hunting of wild birds in the
28 first degree if the person takes or possesses two times or more than
29 the possession or bag limit for wild birds allowed by department
30 rule.

31 (4)(a) Unlawful hunting of wild birds in the second degree is a
32 misdemeanor.

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

35 (5) In addition to the penalties set forth in this section, if a
36 person, other than a youth as defined in RCW 77.08.010 for hunting
37 purposes, violates a department rule that requires the use of
38 nontoxic shot, upon conviction:

1 (a) The court shall require a payment of one thousand dollars as
2 a criminal wildlife penalty assessment that must be paid to the clerk
3 of the court and distributed to the state treasurer for deposit in
4 the fish and wildlife enforcement reward account created in RCW
5 77.15.425. The criminal wildlife penalty assessment must be imposed
6 regardless of and in addition to any sentence, fine, or costs imposed
7 for violating this section. The criminal wildlife penalty assessment
8 must be included by the court in any pronouncement of sentence and
9 may not be suspended, waived, modified, or deferred in any respect;
10 and

11 (b) The department shall revoke the hunting license of the person
12 and order a suspension of small game hunting privileges for two
13 years.

14 **Sec. 19.** RCW 77.15.420 and 2015 c 265 s 38 are each amended to
15 read as follows:

16 (1) If an adult offender is convicted of violating RCW 77.15.410
17 and that violation results in the death of wildlife listed in this
18 section, the court shall require payment of the following amounts for
19 each animal taken or possessed. This shall be a criminal wildlife
20 penalty assessment that shall be paid to the clerk of the court and
21 distributed each month to the state treasurer for deposit in the fish
22 and wildlife enforcement reward account created in RCW 77.15.425.

23	(a) Moose, mountain sheep, mountain	
24	goat, and all wildlife species	
25	classified as endangered by	
26	rule of the commission, except	
27	for mountain caribou and	
28	grizzly bear as listed under (d)	
29	of this subsection.	\$4,000
30	(b) Elk, deer, black bear, and cougar. .	\$2,000
31	(c) Trophy animal elk and deer.	\$6,000
32	(d) Mountain caribou, grizzly bear, and	
33	trophy animal mountain	
34	sheep.	\$12,000

35 (2)(a) For the purpose of this section a "trophy animal" is:
36 (i) A buck deer with four or more antler points on both sides,
37 not including eyeguards;

1 (ii) A bull elk with five or more antler points on both sides,
2 not including eyeguards; or

3 (iii) A mountain sheep with a horn curl of three-quarter curl or
4 greater.

5 (b) For purposes of this subsection, "eyeguard" means an antler
6 protrusion on the main beam of the antler closest to the eye of the
7 animal.

8 (3) If two or more persons are convicted of illegally possessing
9 wildlife in subsection (1) of this section, the criminal wildlife
10 penalty assessment shall be imposed on them jointly and severally.

11 (4) The criminal wildlife penalty assessment shall be imposed
12 regardless of and in addition to any sentence, fines, or costs
13 otherwise provided for violating any provision of this title. The
14 criminal wildlife penalty assessment shall be included by the court
15 in any pronouncement of sentence and may not be suspended, waived,
16 modified, or deferred in any respect. This section may not be
17 construed to abridge or alter alternative rights of action or
18 remedies in equity or under common law or statutory law, criminal or
19 civil.

20 (5) A defaulted criminal wildlife penalty assessment may be
21 collected by any means authorized by law for the enforcement of
22 orders of the court or collection of a fine or costs, including but
23 not limited to vacation of a deferral of sentencing or vacation of a
24 suspension of sentence.

25 (6) A person assessed a criminal wildlife penalty assessment
26 under this section shall have his or her hunting license revoked and
27 all hunting privileges suspended until the penalty assessment is paid
28 through the registry of the court in which the penalty assessment was
29 assessed. This revocation and suspension is in addition to and runs
30 concurrently with any revocation and suspension required by law.

31 (7) The criminal wildlife penalty assessments provided in
32 subsection (1) of this section shall be doubled in the following
33 instances:

34 (a) When a person is convicted of spotlighting big game under RCW
35 77.15.450;

36 (b) When a person commits a violation that requires payment of a
37 wildlife penalty assessment within five years of a prior gross
38 misdemeanor or felony conviction under this title;

39 (c) When the trier of fact determines that the person took or
40 possessed the animal in question with the intent of bartering,

1 selling, or otherwise deriving economic profit from the animal or the
2 animal's parts; or

3 (d) When the trier of fact determines that the person took the
4 animal under the supervision of a licensed guide.

5 **Sec. 20.** RCW 77.15.620 and 2012 c 176 s 30 are each amended to
6 read as follows:

7 (1) A person is guilty of engaging in fish dealing activity
8 without a license in the second degree if the person:

9 (a) Engages in the commercial processing of fish or shellfish,
10 including custom canning or processing of personal use fish or
11 shellfish and does not hold a wholesale dealer's license required by
12 RCW 77.65.280(1)(a) or 77.65.480 for anadromous game fish, or a
13 direct retail endorsement under RCW 77.65.510;

14 (b) Engages in the wholesale selling, buying, or brokering of
15 food fish or shellfish and does not hold a wholesale dealer's or
16 buying license required by RCW 77.65.280(~~(+2)~~) (1)(b) or 77.65.480
17 for anadromous game fish;

18 (c) Is a fisher who lands and sells his or her catch or harvest
19 in the state to anyone other than a licensed wholesale dealer within
20 or outside the state and does not hold a direct retail endorsement
21 required by RCW 77.65.510; or

22 (d) Engages in the commercial manufacture or preparation of
23 fertilizer, oil, meal, caviar, fish bait, or other by-products from
24 food fish or shellfish and does not hold a wholesale dealer's license
25 required by RCW 77.65.280(~~(+4)~~) (1)(d) or 77.65.480 for anadromous
26 game fish.

27 (2) A person is guilty of engaging in fish dealing activity
28 without a license in the first degree if the person commits the act
29 described by subsection (1) of this section and the violation
30 involves fish or shellfish worth two hundred fifty dollars or more.

31 (3)(a) Engaging in fish dealing activity without a license in the
32 second degree is a gross misdemeanor.

33 (b) Engaging in fish dealing activity without a license in the
34 first degree is a class C felony.

35 **Sec. 21.** RCW 77.55.141 and 2010 c 210 s 28 are each amended to
36 read as follows:

1 (1) In order to protect the property of marine waterfront
2 shoreline owners it is necessary to facilitate issuance of permits
3 for bulkheads or rockwalls under certain conditions.

4 (2) The department shall issue a permit with or without
5 conditions within forty-five days of receipt of a complete and
6 accurate application which authorizes commencement of construction,
7 replacement, or repair of a marine beach front protective bulkhead or
8 rockwall for single-family type residences or property under the
9 following conditions:

10 (a) The waterward face of a new bulkhead or rockwall shall be
11 located only as far waterward as is necessary to excavate for
12 footings or place base rock for the structure and under no conditions
13 shall be located more than six feet waterward of the ordinary high
14 water line;

15 (b) Any bulkhead or rockwall to replace or repair an existing
16 bulkhead or rockwall shall be placed along the same alignment as the
17 bulkhead or rockwall it is replacing. However, the replaced or
18 repaired bulkhead or rockwall may be placed waterward of and directly
19 abutting the existing structure only in cases where removal of the
20 existing bulkhead or rockwall would result in environmental
21 degradation or removal problems related to geological, engineering,
22 or safety considerations; (~~and~~)

23 (c) Construction of a new bulkhead or rockwall, or replacement or
24 repair of an existing bulkhead or rockwall waterward of the existing
25 structure shall not result in the permanent loss of critical food
26 fish or shellfish habitats; and

27 (d) Timing constraints shall be applied on a case-by-case basis
28 for the protection of critical habitats, including but not limited to
29 migration corridors, rearing and feeding areas, and spawning
30 habitats, for the proper protection of fish life.

31 (3) Any bulkhead or rockwall construction, replacement, or repair
32 not meeting the conditions in this section shall be processed under
33 this chapter in the same manner as any other application.

34 (4) Any person aggrieved by the approval, denial, conditioning,
35 or modification of a permit under this section may appeal the
36 decision as provided in RCW 77.55.021(~~(+4)~~) (8).

37 **Sec. 22.** RCW 77.55.241 and 2010 c 210 s 30 are each amended to
38 read as follows:

1 (1) The legislature finds that the construction of hydraulic
2 projects may require mitigation for the protection of fish life, and
3 that the mitigation may be most cost-effective and provide the most
4 benefit to the fish resource if the mitigation is allowed to be
5 applied in locations that are off-site of the hydraulic project
6 location. The department may approve off-site mitigation plans that
7 are submitted by permit applicants.

8 (2) If a permit applicant proposes off-site mitigation and the
9 department does not approve the permit or conditions the permit in
10 such a manner as to render off-site mitigation unpracticable, the
11 project proponent may appeal the decision as provided in RCW
12 77.55.021(~~((4))~~) (8).

13 **Sec. 23.** RCW 77.57.040 and 2000 c 107 s 14 are each amended to
14 read as follows:

15 If the director determines that a fishway or fish guard described
16 in RCW (~~((77.55.040 and 77.55.060))~~) 77.57.010 and 77.57.030 and in
17 existence on September 1, 1963, is inadequate, in addition to other
18 authority granted in this chapter, the director may remove, relocate,
19 reconstruct, or modify the device, without cost to the owner. The
20 director shall not materially modify the amount of flow of water
21 through the device. After the department has completed the
22 improvements, the fishways and fish guards shall be operated and
23 maintained at the expense of the owner in accordance with RCW
24 (~~((77.55.040 and 77.55.060))~~) 77.57.010 and 77.57.030.

25 **Sec. 24.** RCW 77.57.060 and 2001 c 253 s 21 are each amended to
26 read as follows:

27 The director may authorize removal, relocation, reconstruction,
28 or other modification of an inadequate fishway or fish protective
29 device required by RCW (~~((77.55.320))~~) 77.57.070 which device was in
30 existence on September 1, 1963, without cost to the owner for
31 materials and labor. The modification may not materially alter the
32 amount of water flowing through the fishway or fish protective
33 device. Following modification, the fishway or fish protective device
34 shall be maintained at the expense of the person or governmental
35 agency owning the obstruction or water diversion device.

36 **Sec. 25.** RCW 77.60.170 and 2008 c 202 s 1 are each amended to
37 read as follows:

1 (1)(a) The department shall transfer the funds required by RCW
2 77.60.160 to the appropriate local governments. Pacific and Grays
3 Harbor counties and Puget Sound shall manage their established
4 shellfish—on-site sewage grant program. The local governments, in
5 consultation with the department of health, shall use the provided
6 funds as grants or loans to individuals for repairing or improving
7 their on-site sewage systems. The grants or loans may be provided
8 only in areas that have the potential to adversely affect water
9 quality in commercial and recreational shellfish growing areas.

10 (b) A recipient of a grant or loan shall enter into an agreement
11 with the appropriate local government to maintain the improved on-
12 site sewage system according to specifications required by the local
13 government.

14 (c) The department shall work closely with local governments and
15 it shall be the goal of the department to attain geographic equity
16 between Grays Harbor, Willapa Bay, and Puget Sound when making funds
17 available under this program.

18 (d) For the purposes of this subsection, "geographic equity"
19 means issuing on-site sewage grants or loans at a level that matches
20 the funds generated from the oyster reserve lands in that area.

21 (2) In Puget Sound, the local governments shall give first
22 priority to areas that are:

23 (a) Identified as "areas of special concern" under WAC
24 246-272-01001 as it existed on January 1, 2001;

25 (b) Included within a shellfish protection district under chapter
26 90.72 RCW; or

27 (c) Identified as a marine recovery area under chapter 70.118A
28 RCW.

29 (3) In Grays Harbor and Pacific counties, the local governments
30 shall give first priority to preventing the deterioration of water
31 quality in areas where commercial or recreational shellfish are
32 grown.

33 (4) The department and each participating local government shall
34 enter into a memorandum of understanding that will establish an
35 applicant income eligibility requirement for individual grant
36 applicants from within the jurisdiction and other mutually agreeable
37 terms and conditions of the grant program.

38 ~~((5) For the 2007-2009 biennium, from the funds received under~~
39 ~~this section, Pacific county shall transfer up to two hundred~~
40 ~~thousand dollars to the department. Upon receiving the funds from~~

1 Pacific county, the department and the appropriate oyster reserve
2 advisory committee under RCW 77.60.160 shall identify and execute
3 specific research projects with those funds.))

4 **Sec. 26.** RCW 77.70.010 and 2001 c 253 s 57 are each amended to
5 read as follows:

6 (1) A license renewed under the provisions of this chapter that
7 has been suspended under RCW 77.65.080 shall be subject to the
8 following provisions:

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

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

14 (2) The provisions of subsection (1) of this section shall apply
15 only to a license that has been suspended under RCW 77.65.080 for a
16 period of twelve months or less. A license holder shall forfeit a
17 license subject to this chapter and may not recover any license
18 renewal fees previously paid if the license holder does not meet the
19 requirements of RCW 74.20A.320(~~((+9))~~) (3) within twelve months of
20 license suspension.

21 **Sec. 27.** RCW 77.70.210 and 2000 c 107 s 70 are each amended to
22 read as follows:

23 (1) A herring spawn on kelp fishery license is required to
24 commercially take herring eggs which have been deposited on
25 vegetation of any type.

26 (2) A herring spawn on kelp fishery license may be issued only to
27 a person who:

28 (a) Holds a herring fishery license issued under RCW 77.65.200
29 and 77.70.120; and

30 (b) Is the highest bidder in an auction conducted under
31 subsection (3) of this section.

32 (3) The department shall sell herring spawn on kelp commercial
33 fishery licenses at auction to the highest bidder. Bidders shall
34 identify their sources of kelp. Kelp harvested from state-owned
35 aquatic lands as defined in RCW (~~((79.90.465))~~) 79.105.060 requires the
36 written consent of the department of natural resources. The
37 department shall give all holders of herring fishery licenses thirty
38 days' notice of the auction.

1 **Sec. 28.** RCW 77.70.280 and 2003 c 174 s 5 are each amended to
2 read as follows:

3 (1) A person shall not commercially fish for coastal crab in
4 Washington state waters without a Dungeness crab—coastal or a
5 Dungeness crab—coastal class B fishery license. Gear used must
6 consist of one buoy attached to each crab pot. Each crab pot must be
7 fished individually.

8 (2) A Dungeness crab—coastal fishery license is transferable.
9 Except as provided in subsections (3) and (8) of this section, such a
10 license shall only be issued to a person who proved active historical
11 participation in the coastal crab fishery by having designated, after
12 December 31, 1993, a vessel or a replacement vessel on the qualifying
13 license that singly or in combination meets the following criteria:

14 (a) Made a minimum of eight coastal crab landings totaling a
15 minimum of five thousand pounds per season in at least two of the
16 four qualifying seasons identified in subsection (5) of this section,
17 as documented by valid Washington state shellfish receiving tickets;
18 and showed historical and continuous participation in the coastal
19 crab fishery by having held one of the following licenses or their
20 equivalents each calendar year beginning 1990 through 1993, and was
21 designated on the qualifying license of the person who held one of
22 the following licenses in 1994:

23 (i) Crab pot—Non-Puget Sound license, issued under RCW
24 77.65.220(1)(b);

25 (ii) Nonsalmon delivery license, issued under RCW 77.65.210;

26 (iii) Salmon troll license, issued under RCW 77.65.160;

27 (iv) Salmon delivery license, issued under RCW 77.65.170;

28 (v) Food fish trawl license, issued under RCW 77.65.200; or

29 (vi) Shrimp trawl license, issued under RCW 77.65.220; or

30 (b) Made a minimum of four Washington landings of coastal crab
31 totaling two thousand pounds during the period from December 1, 1991,
32 to March 20, 1992, and made a minimum of eight crab landings totaling
33 a minimum of five thousand pounds of coastal crab during each of the
34 following periods: December 1, 1991, to September 15, 1992; December
35 1, 1992, to September 15, 1993; and December 1, 1993, to September
36 15, 1994. For landings made after December 31, 1993, the vessel shall
37 have been designated on the qualifying license of the person making
38 the landings; or

1 (c) Made any number of coastal crab landings totaling a minimum
2 of twenty thousand pounds per season in at least two of the four
3 qualifying seasons identified in subsection (5) of this section, as
4 documented by valid Washington state shellfish receiving tickets,
5 showed historical and continuous participation in the coastal crab
6 fishery by having held one of the qualifying licenses each calendar
7 year beginning 1990 through 1993, and the vessel was designated on
8 the qualifying license of the person who held that license in 1994.

9 (3) A Dungeness crab-coastal fishery license shall be issued to a
10 person who had a new vessel under construction between December 1,
11 1988, and September 15, 1992, if the vessel made coastal crab
12 landings totaling a minimum of five thousand pounds by September 15,
13 1993, and the new vessel was designated on the qualifying license of
14 the person who held that license in 1994. All landings shall be
15 documented by valid Washington state shellfish receiving tickets.
16 (~~License applications under this subsection may be subject to review~~
17 ~~by the advisory review board in accordance with RCW 77.70.030.~~) For
18 purposes of this subsection, "under construction" means either:

19 (a)(i) A contract for any part of the work was signed before
20 September 15, 1992; and

21 (ii) The contract for the vessel under construction was not
22 transferred or otherwise alienated from the contract holder between
23 the date of the contract and the issuance of the Dungeness crab-
24 coastal fishery license; and

25 (iii) Construction had not been completed before December 1,
26 1988; or

27 (b)(i) The keel was laid before September 15, 1992; and

28 (ii) Vessel ownership was not transferred or otherwise alienated
29 from the owner between the time the keel was laid and the issuance of
30 the Dungeness crab-coastal fishery license; and

31 (iii) Construction had not been completed before December 1,
32 1988.

33 (4) A Dungeness crab-coastal class B fishery license is not
34 transferable. Such a license shall be issued to persons who do not
35 meet the qualification criteria for a Dungeness crab-coastal fishery
36 license, if the person has designated on a qualifying license after
37 December 31, 1993, a vessel or replacement vessel that, singly or in
38 combination, made a minimum of four landings totaling a minimum of
39 two thousand pounds of coastal crab, documented by valid Washington
40 state shellfish receiving tickets, during at least one of the four

1 qualifying seasons, and if the person has participated continuously
2 in the coastal crab fishery by having held or by having owned a
3 vessel that held one or more of the licenses listed in subsection (2)
4 of this section in each calendar year subsequent to the qualifying
5 season in which qualifying landings were made through 1994. Dungeness
6 crab—coastal class B fishery licenses cease to exist after December
7 31, 1999, and the continuing license provisions of RCW 34.05.422(3)
8 are not applicable.

9 (5) The four qualifying seasons for purposes of this section are:

10 (a) December 1, 1988, through September 15, 1989;

11 (b) December 1, 1989, through September 15, 1990;

12 (c) December 1, 1990, through September 15, 1991; and

13 (d) December 1, 1991, through September 15, 1992.

14 (6) For purposes of this section and RCW 77.70.340, "coastal
15 crab" means Dungeness crab (cancer magister) taken in all Washington
16 territorial and offshore waters south of the United States-Canada
17 boundary and west of the Bonilla-Tatoosh line (a line from the
18 western end of Cape Flattery to Tatoosh Island lighthouse, then to
19 the buoy adjacent to Duntz Rock, then in a straight line to Bonilla
20 Point of Vancouver island), Grays Harbor, Willapa Bay, and the
21 Columbia river.

22 (7) For purposes of this section, "replacement vessel" means a
23 vessel used in the coastal crab fishery in 1994, and that replaces a
24 vessel used in the coastal crab fishery during any period from 1988
25 through 1993, and which vessel's licensing and catch history,
26 together with the licensing and catch history of the vessel it
27 replaces, qualifies a single applicant for a Dungeness crab—coastal
28 or Dungeness crab—coastal class B fishery license. A Dungeness crab—
29 coastal or Dungeness crab—coastal class B fishery license may only be
30 issued to a person who designated a vessel in the 1994 coastal crab
31 fishery and who designated the same vessel in 1995.

32 (8) A Dungeness crab—coastal fishery license may not be issued to
33 a person who participates in the federal fleet reduction program
34 created in RCW 77.70.460 within ten years of that person's
35 participation in the federal program, if reciprocal restrictions are
36 imposed by the states of Oregon and California on persons
37 participating in the federal fleet reduction program.

1 **Sec. 29.** RCW 77.70.360 and 2000 c 107 s 81 are each amended to
2 read as follows:

3 (~~Except as provided under RCW 77.70.380,~~) The director shall
4 issue no new Dungeness crab-coastal fishery licenses after December
5 31, 1995. A person may renew an existing license only if the person
6 held the license sought to be renewed during the previous year or
7 acquired the license by transfer from someone who held it during the
8 previous year, and if the person has not subsequently transferred the
9 license to another person. Where the person failed to obtain the
10 license during the previous year because of a license suspension, the
11 person may qualify for a license by establishing that the person held
12 such a license during the last year in which the license was not
13 suspended.

14 **Sec. 30.** RCW 77.70.390 and 2000 c 107 s 83 are each amended to
15 read as follows:

16 The director may reduce the landing requirements established
17 under RCW 77.70.280 (~~upon the recommendation of an advisory review~~
18 ~~board established under RCW 77.70.030~~), but the director may not
19 entirely waive the landing requirement. (~~The advisory review board~~
20 ~~may recommend a reduction of the landing requirement in individual~~
21 ~~cases if in the advisory review board's judgment, extenuating~~
22 ~~circumstances prevented achievement of the landing requirement.~~) The
23 director shall adopt rules (~~governing the operation of the advisory~~
24 ~~review board and~~) defining "extenuating circumstances." Extenuating
25 circumstances may include situations in which a person had a vessel
26 under construction such that qualifying landings could not be made.
27 In defining extenuating circumstances, special consideration shall be
28 given to individuals who can provide evidence of lack of access to
29 capital based on past discrimination due to race, creed, color, sex,
30 national origin, or disability.

31 **Sec. 31.** RCW 77.85.020 and 2009 c 345 s 4 are each amended to
32 read as follows:

33 (1) (~~Beginning December 2010,~~) (a) The recreation and
34 conservation office shall produce a biennial report on the statewide
35 status of salmon recovery and watershed health, summarize projects
36 and programs funded by the salmon recovery funding board, and
37 summarize progress as measured by high-level indicators and state
38 agency compliance with applicable protocols established by the forum

1 for monitoring salmon recovery and watershed health. The report must
2 be a consolidation of (~~the current~~) all similar reporting
3 activities, including the salmon recovery funding board and the
4 (~~forum on monitoring salmon recovery and watershed health, on the~~
5 ~~status of salmon recovery and watershed health in Washington state,~~
6 ~~in accordance with RCW 77.85.250(8)~~) department under RCW 77.04.160.

7 (b) The report required under this section shall also include a
8 high-level status report on watershed planning efforts under chapter
9 90.82 RCW as summarized by the department of ecology and on salmon
10 recovery and watershed planning as summarized by the Puget Sound
11 partnership. The report's introduction must include a list of high-
12 level questions related to the status of watershed health and salmon
13 recovery to help decision makers and the public respond to salmon
14 recovery and watershed health management needs.

15 (2) The department, the department of ecology, the department of
16 natural resources, and the state conservation commission shall
17 provide to the recreation and conservation office information
18 requested by the office necessary to prepare the consolidated report
19 on salmon recovery and watershed health.

20 **Sec. 32.** RCW 77.85.040 and 2007 c 444 s 4 are each amended to
21 read as follows:

22 (1)(a) The governor may request the Washington academy of
23 sciences, when organized pursuant to chapter 305, Laws of 2005, to
24 impanel an independent science panel on salmon recovery to respond to
25 requests for review pursuant to subsection (2) of this section. The
26 panel shall reflect expertise in habitat requirements of salmon,
27 protection and restoration of salmon populations, artificial
28 propagation of salmon, hydrology, or geomorphology.

29 (b) Based upon available funding, the governor's salmon recovery
30 office may contract for services of the independent science panel for
31 compensation under chapter (~~39.29~~) 39.26 RCW.

32 (2) The independent science panel shall be governed by guidelines
33 and practices governing the activities of the Washington academy of
34 sciences. The purpose of the independent science panel is to help
35 ensure that sound science is used in salmon recovery efforts. The
36 governor's salmon recovery office may, during the time it is
37 constituted, request that the panel review, investigate, and provide
38 its findings on scientific questions relating to the state's salmon
39 recovery efforts. The science panel does not have the authority to

1 review individual projects or habitat project lists developed under
2 RCW 77.85.050 or 77.85.060 or to make policy decisions. The panel
3 shall submit its findings and recommendations under this subsection
4 to the legislature and the governor.

5 **Sec. 33.** RCW 77.85.130 and 2011 c 20 s 16 are each amended to
6 read as follows:

7 (1) The salmon recovery funding board shall develop procedures
8 and criteria for allocation of funds for salmon habitat projects and
9 salmon recovery activities on a statewide basis to address the
10 highest priorities for salmon habitat protection and restoration. To
11 the extent practicable the board shall adopt an annual allocation of
12 funding. The allocation should address both protection and
13 restoration of habitat, and should recognize the varying needs in
14 each area of the state on an equitable basis. The board has the
15 discretion to partially fund, or to fund in phases, salmon habitat
16 projects. The board may annually establish a maximum amount of
17 funding available for any individual project, subject to available
18 funding. No projects required solely as a mitigation or a condition
19 of permitting are eligible for funding.

20 (2)(a) In evaluating, ranking, and awarding funds for projects
21 and activities the board shall give preference to projects that:

22 (i) Are based upon the limiting factors analysis identified under
23 RCW 77.85.060;

24 (ii) Provide a greater benefit to salmon recovery based upon the
25 stock status information contained in the department (~~of fish and~~
26 ~~wildlife~~) salmonid stock inventory (~~(SASSI)~~) (SaSI), the salmon
27 and steelhead habitat inventory and assessment project (SSHIA), and
28 any comparable science-based assessment when available;

29 (iii) Will benefit listed species and other fish species;

30 (iv) Will preserve high quality salmonid habitat;

31 (v) Are included in a regional or watershed-based salmon recovery
32 plan that accords the project, action, or area a high priority for
33 funding;

34 (vi) Are, except as provided in RCW 77.85.240, sponsored by an
35 entity that is a Puget Sound partner, as defined in RCW 90.71.010;
36 and

37 (vii) Are projects referenced in the action agenda developed by
38 the Puget Sound partnership under RCW 90.71.310.

1 (b) In evaluating, ranking, and awarding funds for projects and
2 activities the board shall also give consideration to projects that:

3 (i) Are the most cost-effective;

4 (ii) Have the greatest matched or in-kind funding;

5 (iii) Will be implemented by a sponsor with a successful record
6 of project implementation;

7 (iv) Involve members of the Washington conservation corps
8 established in chapter 43.220 RCW or the veterans conservation corps
9 established in RCW 43.60A.150; and

10 (v) Are part of a regionwide list developed by lead entities.

11 (3) The board may reject, but not add, projects from a habitat
12 project list submitted by a lead entity for funding.

13 (4)(a) The board shall establish criteria for determining when
14 block grants may be made to a lead entity. The board may provide
15 block grants to the lead entity to implement habitat project lists
16 developed under RCW 77.85.050, subject to available funding. The
17 board shall determine an equitable minimum amount of project funds
18 for each recovery region, and shall distribute the remainder of funds
19 on a competitive basis. The board may also provide block grants to
20 the lead entity or regional recovery organization to assist in
21 carrying out functions described under this chapter. Block grants
22 must be expended consistent with the priorities established for the
23 board in subsection (2) of this section.

24 (b) Lead entities or regional recovery organizations receiving
25 block grants under this subsection shall provide an annual report to
26 the board summarizing how funds were expended for activities
27 consistent with this chapter, including the types of projects funded,
28 project outcomes, monitoring results, and administrative costs.

29 (5) The board may waive or modify portions of the allocation
30 procedures and standards adopted under this section in the award of
31 grants or loans to conform to legislative appropriations directing an
32 alternative award procedure or when the funds to be awarded are from
33 federal or other sources requiring other allocation procedures or
34 standards as a condition of the board's receipt of the funds. The
35 board shall develop an integrated process to manage the allocation of
36 funding from federal and state sources to minimize delays in the
37 award of funding while recognizing the differences in state and
38 legislative appropriation timing.

39 (6) The board may award a grant or loan for a salmon recovery
40 project on private or public land when the landowner has a legal

1 obligation under local, state, or federal law to perform the project,
2 when expedited action provides a clear benefit to salmon recovery,
3 and there will be harm to salmon recovery if the project is delayed.
4 For purposes of this subsection, a legal obligation does not include
5 a project required solely as a mitigation or a condition of
6 permitting.

7 (7) Property acquired or improved by a project sponsor may be
8 conveyed to a federal agency if: (a) The agency agrees to comply with
9 all terms of the grant or loan to which the project sponsor was
10 obligated; or (b) the board approves: (i) Changes in the terms of the
11 grant or loan, and the revision or removal of binding deed of right
12 instruments; and (ii) a memorandum of understanding or similar
13 document ensuring that the facility or property will retain, to the
14 extent feasible, adequate habitat protections; and (c) the
15 appropriate legislative authority of the county or city with
16 jurisdiction over the project area approves the transfer and provides
17 notification to the board.

18 (8) Any project sponsor receiving funding from the salmon
19 recovery funding board that is not subject to disclosure under
20 chapter 42.56 RCW must, as a mandatory contractual prerequisite to
21 receiving the funding, agree to disclose any information in regards
22 to the expenditure of that funding as if the project sponsor was
23 subject to the requirements of chapter 42.56 RCW.

24 (9) (~~After January 1, 2010,~~) Any project designed to address
25 the restoration of Puget Sound may be funded under this chapter only
26 if the project is not in conflict with the action agenda developed by
27 the Puget Sound partnership under RCW 90.71.310.

28 **Sec. 34.** RCW 77.85.140 and 2009 c 518 s 9 and 2009 c 345 s 8 are
29 each reenacted and amended to read as follows:

30 (1) Habitat project lists shall be submitted to the salmon
31 recovery funding board for funding at least once a year on a schedule
32 established by the board. (~~The board shall provide the legislature
33 with a list of the proposed projects and a list of the projects
34 funded by October 1st of each year for informational purposes.~~)
35 Project sponsors who complete salmon habitat projects approved for
36 funding from habitat project lists and have met grant application
37 deadlines will be paid by the salmon recovery funding board within
38 thirty days of project completion.

1 (2) The recreation and conservation office shall track all funds
2 allocated for salmon habitat projects and salmon recovery activities
3 on behalf of the board, including both funds allocated by the board
4 and funds allocated by other state or federal agencies for salmon
5 recovery or water quality improvement.

6 **Sec. 35.** RCW 77.85.160 and 1999 sp.s. c 13 s 13 are each amended
7 to read as follows:

8 State salmon monitoring data provided by lead entities, regional
9 fisheries enhancement groups, and others shall be included in the
10 database of (~~SASSI [salmon and steelhead stock inventory]~~) SaSI
11 (salmonid stock inventory) and SSHIAP (~~(+)~~)(salmon and steelhead
12 habitat inventory assessment project(~~(+)~~)). Information pertaining to
13 habitat preservation projects funded through the Washington wildlife
14 and recreation program, the conservation reserve enhancement program,
15 and other conservancy programs related to salmon habitat shall be
16 included in the SSHIAP database.

17 **Sec. 36.** RCW 77.85.220 and 2003 c 391 s 4 are each amended to
18 read as follows:

19 (~~(+)~~) If a limiting factors analysis has been conducted under
20 this chapter for a specific geographic area and that analysis shows
21 insufficient intertidal salmon habitat, the department of fish and
22 wildlife and the county legislative authorities of the affected
23 counties may jointly initiate a salmon intertidal habitat restoration
24 planning process to develop a plan that addresses the intertidal
25 habitat goals contained in the limiting factors analysis. The fish
26 and wildlife commission and the county legislative authorities of the
27 geographic area shall (~~jointly appoint a task force composed of the~~
28 ~~following members:~~

29 ~~(a) One representative of the fish and wildlife commission,~~
30 ~~appointed by the chair of the commission;~~

31 ~~(b) Two representatives of the agricultural industry familiar~~
32 ~~with agricultural issues in the geographic area, one appointed by an~~
33 ~~organization active in the geographic area and one appointed by a~~
34 ~~statewide organization representing the industry;~~

35 ~~(c) Two representatives of environmental interest organizations~~
36 ~~with familiarity and expertise of salmon habitat, one appointed by an~~
37 ~~organization in the geographic area and one appointed by a statewide~~
38 ~~organization representing environmental interests;~~

1 ~~(d) One representative of a diking and drainage district,~~
2 ~~appointed by the individual districts in the geographic area or by an~~
3 ~~association of diking and drainage districts;~~

4 ~~(e) One representative of the lead entity for salmon recovery in~~
5 ~~the geographic area, appointed by the lead entity;~~

6 ~~(f) One representative of each county in the geographic area,~~
7 ~~appointed by the respective county legislative authorities; and~~

8 ~~(g) One representative from the office of the governor.~~

9 ~~(2) Representatives of the United States environmental protection~~
10 ~~agency, the United States natural resources conservation service,~~
11 ~~federal fishery agencies, as appointed by their regional director,~~
12 ~~and tribes with interests in the geographic area shall be invited and~~
13 ~~encouraged to participate as members of the task force.~~

14 ~~(3) The task force shall elect a chair and adopt rules for~~
15 ~~conducting the business of the task force. Staff support for the task~~
16 ~~force shall be provided by the Washington state conservation~~
17 ~~commission.~~

18 ~~(4) The task force shall:~~

19 ~~(a)) work together with interested stakeholders to:~~

20 ~~(1) Review and analyze the limiting factors analysis for the~~
21 ~~geographic area;~~

22 ~~((b)) (2) Initiate and oversee intertidal salmon habitat~~
23 ~~studies for enhancement of the intertidal area as provided in RCW~~
24 ~~77.85.230;~~

25 ~~((c)) (3) Review and analyze the completed assessments listed~~
26 ~~in RCW 77.85.230;~~

27 ~~((d)) (4) Develop and draft an overall plan that addresses~~
28 ~~identified intertidal salmon habitat goals that has public support;~~
29 ~~and~~

30 ~~((e)) (5) Identify appropriate demonstration projects and early~~
31 ~~implementation projects that are of high priority and should commence~~
32 ~~immediately within the geographic area.~~

33 ~~((5) The task force may request briefings as needed on legal~~
34 ~~issues that may need to be considered when developing or implementing~~
35 ~~various plan options.~~

36 ~~(6) Members of the task force shall be reimbursed by the~~
37 ~~conservation commission for travel expenses as provided in RCW~~
38 ~~43.03.050 and 43.03.060.~~

39 ~~(7) The task force shall provide annual reports that provide an~~
40 ~~update on its activities to the fish and wildlife commission, to the~~

1 ~~involved county legislative authorities, and to the lead entity~~
2 ~~formed under this chapter.))~~

3 **Sec. 37.** RCW 77.85.230 and 2009 c 333 s 24 are each amended to
4 read as follows:

5 (1) ~~((In consultation with the appropriate task force formed~~
6 ~~under RCW 77.85.220,))~~ The conservation commission may contract with
7 universities, private consultants, nonprofit groups, or other
8 entities to assist it in developing a plan incorporating the
9 following elements:

10 (a) An inventory of existing tide gates located on streams in the
11 county. The inventory shall include location, age, type, and
12 maintenance history of the tide gates and other factors as determined
13 by the appropriate task force in consultation with the county and
14 diking and drainage districts;

15 (b) An assessment of the role of tide gates located on streams in
16 the county; the role of intertidal fish habitat for various life
17 stages of salmon; the quantity and characterization of intertidal
18 fish habitat currently accessible to fish; the quantity and
19 characterization of the present intertidal fish habitat created at
20 the time the dikes and outlets were constructed; the quantity of
21 potential intertidal fish habitat on public lands and alternatives to
22 enhance this habitat; the effects of saltwater intrusion on
23 agricultural land, including the effects of backfeeding of saltwater
24 through the underground drainage system; the role of tide gates in
25 drainage systems, including relieving excess water from saturated
26 soil and providing reservoir functions between tides; the effect of
27 saturated soils on production of crops; the characteristics of
28 properly functioning intertidal fish habitat; a map of agricultural
29 lands designated by the county as having long-term commercial
30 significance and the effect of that designation; and the economic
31 impacts to existing land uses for various alternatives for tide gate
32 alteration; and

33 (c) A long-term plan for intertidal salmon habitat enhancement to
34 meet the goals of salmon recovery and protection of agricultural
35 lands. The proposal shall consider all other means to achieve salmon
36 recovery without converting farmland. The proposal shall include
37 methods to increase fish passage and otherwise enhance intertidal
38 habitat on public lands pursuant to subsection (2) of this section,
39 voluntary methods to increase fish passage on private lands, a

1 priority list of intertidal salmon enhancement projects, and
2 recommendations for funding of high priority projects. The task force
3 also may propose pilot projects that will be designed to test and
4 measure the success of various proposed strategies.

5 (2) In conjunction with other public landowners (~~and the~~
6 ~~appropriate task force formed under RCW 77.85.220~~), the department
7 shall develop an initial salmon intertidal habitat enhancement plan
8 for public lands in the county. The initial plan shall include a list
9 of public properties in the intertidal zone that could be enhanced
10 for salmon, a description of how those properties could be altered to
11 support salmon, a description of costs and sources of funds to
12 enhance the property, and a strategy and schedule for prioritizing
13 the enhancement of public lands for intertidal salmon habitat. (~~This~~
14 ~~initial plan shall be submitted to the appropriate task force at~~
15 ~~least six months before the deadline established in subsection (3) of~~
16 ~~this section.~~)

17 (3) (~~The final intertidal salmon enhancement plan shall be~~
18 ~~completed within two years from the date the task force is formed~~
19 ~~under RCW 77.85.220 and funding has been secured.~~) A final plan
20 shall be submitted (~~by the appropriate task force~~) to the lead
21 entity for the geographic area established under this chapter.

22 **Sec. 38.** RCW 77.95.020 and 1995 1st sp.s. c 2 s 34 are each
23 amended to read as follows:

24 (1) The commission shall (~~develop~~) maintain long-term regional
25 policy statements regarding the salmon fishery resources (~~before~~
26 ~~December 1, 1985~~). The commission shall consider the following in
27 formulating and updating regional policy statements:

28 (a) Existing resource needs;

29 (b) Potential for creation of new resources;

30 (c) Successful existing programs, both within and outside the
31 state;

32 (d) Balanced utilization of natural and hatchery production;

33 (e) Desires of the fishing interest;

34 (f) Need for additional data or research;

35 (g) Federal court orders; and

36 (h) Salmon advisory council recommendations.

37 (2) The commission shall review and update each policy statement
38 (~~at least once each year~~) as needed.

1 **Sec. 39.** RCW 77.95.090 and 2009 c 340 s 4 are each amended to
2 read as follows:

3 (1) The dedicated regional fisheries enhancement group account is
4 created in the custody of the state treasurer. Only the commission or
5 the commission's designee may authorize expenditures from the
6 account. The account is subject to allotment procedures under chapter
7 43.88 RCW, but no appropriation is required for expenditures.

8 (2) A portion of each recreational fishing license fee shall be
9 used as provided in RCW 77.32.440. A surcharge of one hundred dollars
10 shall be collected on each commercial salmon fishery license, each
11 salmon delivery license, and each salmon charter license sold in the
12 state. All receipts shall be placed in the regional fisheries
13 enhancement group account and shall be used exclusively for regional
14 fisheries enhancement group projects (~~for the purposes of RCW~~
15 ~~77.95.110~~). Except as provided in RCW 77.95.320, funds from the
16 regional fisheries enhancement group account shall not serve as
17 replacement funding for department operated salmon projects that
18 exist on January 1, 1991.

19 (3) All revenue from the department's sale of salmon carcasses
20 and eggs that return to group facilities shall be deposited in the
21 regional fisheries enhancement group account for use by the regional
22 fisheries enhancement group that produced the surplus. The commission
23 shall adopt rules to implement this section pursuant to chapter 34.05
24 RCW.

25 **Sec. 40.** RCW 77.95.190 and 2010 1st sp.s. c 7 s 84 are each
26 amended to read as follows:

27 The department (~~shall~~) may field test coho and chinook salmon
28 remote site incubators. The purpose of field testing efforts shall be
29 to gather conclusive scientific data on the effectiveness of coho and
30 chinook remote site incubators.

31 **Sec. 41.** RCW 77.95.200 and 2009 c 333 s 29 are each amended to
32 read as follows:

33 (1) The department (~~shall~~) may develop and implement a program
34 utilizing remote site incubators in Washington (~~state~~). If used,
35 the program (~~shall~~) must identify sites in tributaries that are
36 suitable for reestablishing self-sustaining, locally adapted
37 populations of coho, chum, or chinook salmon. The initial selection
38 of sites shall be updated annually.

1 (2) The department may only approve a remote site incubator
2 project if the department deems it is consistent with the
3 conservation of wild salmon and trout. The department shall only
4 utilize appropriate salmonid eggs in remote site incubators, and may
5 acquire eggs by gift or purchase.

6 (3) The department shall depend chiefly upon volunteer efforts to
7 implement ~~((the))~~ a remote site incubator program through volunteer
8 cooperative projects and the regional fisheries enhancement groups.
9 The department may prioritize remote site incubator projects within
10 regional enhancement areas.

11 (4) The department may purchase remote site incubators and may
12 use agency employees to construct remote site incubators.

13 (5) The department ~~((shall))~~ may investigate the use of the
14 remote site incubator technology for the production of warm water
15 fish.

16 (6) ~~((Annual))~~ Reports on the progress of the program shall be
17 provided to the fish and wildlife commission as requested.

18 **Sec. 42.** RCW 77.95.230 and 1989 c 336 s 2 are each amended to
19 read as follows:

20 The director shall determine the cost of operating all state-
21 funded salmon production facilities at full capacity and shall
22 provide this information with the department's biennial budget
23 request if so requested by the office of financial management.

24 **Sec. 43.** RCW 77.100.050 and 2001 c 337 s 3 are each amended to
25 read as follows:

26 (1) The department shall, when deemed needed by the department:

27 (a) Encourage and support the establishment of cooperative
28 agreements for the development and operation of cooperative food
29 fish, shellfish, game fish, game bird, game animal, and nongame
30 wildlife projects, and projects which provide an opportunity for
31 volunteer groups to become involved in resource and habitat-oriented
32 activities. All cooperative projects shall be fairly considered in
33 the approval of cooperative agreements;

34 (b) Identify regions and species or activities that would be
35 particularly suitable for cooperative projects providing benefits
36 compatible with department goals;

37 (c) Determine the availability of rearing space at operating
38 facilities or of net pens, egg boxes, portable rearing containers,

1 incubators, and any other rearing facilities for use in cooperative
2 projects, and allocate them to volunteer groups as fairly as
3 possible;

4 (d) Make viable eggs available for replenishing fish runs, and
5 salmon carcasses for nutrient enhancement of streams. If a regional
6 fisheries enhancement group, lead entity, volunteer cooperative
7 group, federally approved tribe in Washington, or a governmental
8 hatchery in Washington, Oregon, or Idaho requests the department for
9 viable eggs, the department must include the request within the brood
10 stock document prepared for review by the regional offices. The eggs
11 shall be distributed in accordance with the priority established in
12 RCW 77.95.210 if they are available. A request for viable eggs may
13 only be denied if the eggs would not be useful for propagation or
14 salmon recovery purposes, as determined under RCW 77.95.210;

15 (e) Exempt volunteer groups from payment of fees to the
16 department for activities related to the project;

17 (f) Publicize the cooperative program(~~(+)~~).

18 (~~(+g)~~) (2) The department may not substitute a new cooperative
19 project for any part of the department's program unless mutually
20 agreeable to the department and volunteer group(~~(+)~~

21 ~~(+h)~~) and the department may not approve agreements that are
22 incompatible with legally existing land, water, or property rights.

23 (~~(+2)~~) (3) The department may, when requested, provide to
24 volunteer groups its available professional expertise and assist the
25 volunteer group to evaluate its project. The department must, if
26 requested or deemed helpful by the department, conduct annual
27 workshops in each administrative region of the department that has
28 fish stocks listed as threatened or endangered under the federal
29 endangered species act, 16 U.S.C. Sec. 1531 et seq., in order to
30 assist volunteer groups with egg rearing, share information on
31 successful salmon recovery projects accomplished by volunteers within
32 the state, and provide basic training on monitoring efforts that can
33 be accomplished by volunteers in order to help determine if their
34 efforts are successful.

35 **Sec. 44.** RCW 77.100.060 and 2001 c 337 s 4 are each amended to
36 read as follows:

37 The commission shall establish by rule:

38 (1) The procedure for entering a cooperative agreement and the
39 application forms for a permit to release fish or wildlife (~~required~~

1 ~~by RCW 77.12.457~~). The procedure shall indicate the information
2 required from the volunteer group as well as the process of review by
3 the department. The process of review shall include the means to
4 coordinate with other agencies and Indian tribes when appropriate and
5 to coordinate the review of any necessary hydraulic permit approval
6 applications.

7 (2) The procedure for providing within forty-five days of receipt
8 of a proposal a written response to the volunteer group indicating
9 the date by which an acceptance or rejection of the proposal can be
10 expected, the reason why the date was selected, and a written summary
11 of the process of review. The response should also include any
12 suggested modifications to the proposal which would increase its
13 likelihood of approval and the date by which such modified proposal
14 could be expected to be accepted. If the proposal is rejected, the
15 department must provide in writing the reasons for rejection. The
16 volunteer group may request the director or the director's designee
17 to review information provided in the response.

18 (3) The priority of the uses to which eggs, seed, juveniles, or
19 brood stock are put. Use by cooperative projects shall be second in
20 priority only to the needs of programs of the department or of other
21 public agencies within the territorial boundaries of the state. Sales
22 of eggs, seed, juveniles, or brood stock have a lower priority than
23 use for cooperative projects. The rules must identify and implement
24 appropriate protocols for brood stock handling, including the
25 outplanting of adult fish, spawning, incubation, rearing, and release
26 and establish a prioritized schedule for implementation of chapter
27 337, Laws of 2001, and shall include directives for allowing more
28 hatchery salmon to spawn naturally in areas where progeny of hatchery
29 fish have spawned, including the outplanting of adult fish, in order
30 to increase the number of viable salmon eggs and restore healthy
31 numbers of fish within the state.

32 (4) The procedure for the director to notify a volunteer group
33 that the agreement for the project is being revoked for cause and the
34 procedure for revocation. Revocation shall be documented in writing
35 to the volunteer group. Cause for revocation may include: (a) The
36 unavailability of adequate biological or financial resources; (b) the
37 development of unacceptable biological or resource management
38 conflicts; or (c) a violation of agreement provisions. Notice of
39 cause to revoke for a violation of agreement provisions may specify a

1 reasonable period of time within which the volunteer group must
2 comply with any violated provisions of the agreement.

3 (5) An appropriate method of distributing among volunteer groups
4 fish, bird, or animal food or other supplies available for the
5 program.

6 **Sec. 45.** RCW 77.115.010 and 2000 c 107 s 122 are each amended to
7 read as follows:

8 (1) The director of agriculture and the director shall jointly
9 develop a program of disease inspection and control for aquatic
10 farmers as defined in RCW 15.85.020. The program shall be
11 administered by the department under rules established under this
12 section. The purpose of the program is to protect the aquaculture
13 industry and wildstock fisheries from a loss of productivity due to
14 aquatic diseases or maladies. As used in this section "diseases"
15 means, in addition to its ordinary meaning, infestations of parasites
16 or pests.

17 (2) The disease program may include, but is not limited to, the
18 following elements:

- 19 (a) Disease diagnosis;
- 20 (b) Import and transfer requirements;
- 21 (c) Provision for certification of stocks;
- 22 (d) Classification of diseases by severity;
- 23 (e) Provision for treatment of selected high-risk diseases;
- 24 (f) Provision for containment and eradication of high-risk
25 diseases;
- 26 (g) Provision for destruction of diseased cultured aquatic
27 products;
- 28 (h) Provision for quarantine of diseased cultured aquatic
29 products;
- 30 (i) Provision for coordination with state and federal agencies;
- 31 (j) Provision for development of preventative or control
32 measures;
- 33 (k) Provision for cooperative consultation service to aquatic
34 farmers; and
- 35 (l) Provision for disease history records.

36 ((+2)) (3) The commission shall adopt rules implementing this
37 section. However, such rules shall have the prior approval of the
38 director of agriculture and shall provide therein that the director
39 of agriculture has provided ((such)) approval. The director of

1 agriculture or the director's designee shall attend the rule-making
2 hearings conducted under chapter 34.05 RCW and shall assist in
3 conducting those hearings. The authorities granted the department by
4 these rules and by RCW 77.12.047(1)(g), 77.60.060, 77.60.080,
5 77.65.210, (~~77.115.020,~~) 77.115.030, and 77.115.040 constitute the
6 only authorities of the department to regulate private sector
7 cultured aquatic products and aquatic farmers as defined in RCW
8 15.85.020. Except as provided in subsection (~~(3)~~) (4) of this
9 section, no action may be taken against any person to enforce these
10 rules unless the department has first provided the person an
11 opportunity for a hearing. In such a case, if the hearing is
12 requested, no enforcement action may be taken before the conclusion
13 of that hearing.

14 (~~(3)~~) (4) The rules adopted under this section shall specify
15 the emergency enforcement actions that may be taken by the
16 department, and the circumstances under which they may be taken,
17 without first providing the affected party with an opportunity for a
18 hearing. Neither the provisions of this subsection nor the provisions
19 of subsection (~~(2)~~) (3) of this section shall preclude the
20 department from requesting the initiation of criminal proceedings for
21 violations of the disease inspection and control rules.

22 (~~(4)~~) (5) A person shall not violate the rules adopted under
23 subsection (~~(2) or (3)~~) (3) or (4) of this section or violate RCW
24 77.115.040.

25 (~~(5)~~) (6) In administering the program established under this
26 section, the department shall use the services of a pathologist
27 licensed to practice veterinary medicine.

28 (~~(6)~~) (7) The director in administering the program shall not
29 place constraints on or take enforcement actions in respect to the
30 aquaculture industry that are more rigorous than those placed on the
31 department or other fish-rearing entities.

32 NEW SECTION. **Sec. 46.** The following acts or parts of acts are
33 each repealed:

34 (1) RCW 77.12.605 (Whidbey Island game farm—Sale of property) and
35 1999 c 205 s 1;

36 (2) RCW 77.12.690 (Annual migratory bird permit design—
37 Administration, sale, and distribution—Deposit and use of funds) and
38 2011 1st sp.s. c 21 s 16 & 2009 c 333 s 38;

1 (3) RCW 77.12.710 (Game fish production—Double by year 2000) and
2 1998 c 245 s 159, 1995 c 399 s 208, 1993 sp.s. c 2 s 70, & 1990 c 110
3 s 2; and

4 (4) RCW 77.65.900 (Effective date—1989 c 316) and 1989 c 316 s
5 22.

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