

HOUSE BILL REPORT

HB 2307

As Passed House:
February 14, 2018

Title: An act relating to requiring confidentiality in the release of sensitive fish and wildlife data.

Brief Description: Requiring confidentiality in the release of sensitive fish and wildlife data.

Sponsors: Representatives Van Werven and Young.

Brief History:

Committee Activity:

Agriculture & Natural Resources: 1/17/18, 1/24/18 [DP].

Floor Activity:

Passed House: 2/14/18, 98-0.

Brief Summary of Bill

- Requires release of sensitive fish and wildlife data to be subject to a confidentiality agreement.

HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

Majority Report: Do pass. Signed by 13 members: Representatives Blake, Chair; Chapman, Vice Chair; Buys, Ranking Minority Member; Dent, Assistant Ranking Minority Member; Fitzgibbon, Lytton, Orcutt, Pettigrew, Robinson, Schmick, Springer, Stanford and Walsh.

Staff: Rebecca Lewis (786-7339).

Background:

The Public Records Act (PRA) requires state and local agencies to make their written records available to the public for inspection and copying upon request, unless the information fits into one of the various specific exemptions in the PRA or otherwise provided in law. The stated policy of the PRA favors disclosure and requires narrow application of the listed exemptions.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The PRA exempts from public disclosure certain sensitive fish and wildlife data that is collected and shared by the Washington Department of Fish and Wildlife (WDFW) for research and management purposes. Sensitive fish and wildlife data generally includes location data or nesting sites of endangered or threatened wildlife as designated by the Fish and Wildlife Commission or the WDFW, or other location data that could compromise the viability of a certain fish or wildlife population. Sensitive fish and wildlife data does not include reported predatory wildlife interactions.

Release of sensitive fish and wildlife data may be subject to a confidentiality agreement. There is an exception for the release of sensitive fish and wildlife data to the owner, lessee, or right-of-way or easement holder of private land who initially provided the data.

Summary of Bill:

Release of sensitive fish and wildlife data must, instead of may, be subject to a confidentiality agreement. The exception for release of such data to the owner, lessee, or right-of-way or easement holder of private land who initially provided the data is maintained.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: This bill takes effect 90 days after adjournment of the session in which the bill is passed, except for section 2, relating to fish and wildlife data exempt from public disclosure, which takes effect June 30, 2022, to account for a double amendment created in 2017.

Staff Summary of Public Testimony:

(In support) It was brought to the attention of the Sunshine Committee that the law pertaining to the release of sensitive fish and wildlife data needs to be tightened. The bill simply changes a "may" to a "must." This affects catch data, land management data, scientific data, and the location of specific wildlife populations. The bill would require the WDFW to have a confidentiality agreement whenever sensitive fish and wildlife data is shared with government agencies, public utilities, and colleges and universities. Impacts to the WDFW will be minor since the WDFW already uses confidentiality clauses in data sharing agreements. The WDFW will notify staff and work with the Office of the Attorney General to ensure confidentiality agreements are defensible. The Public Records Act exemption for sensitive fish and wildlife data helps working forest landowners be a partner in species recovery by enabling them to freely share data with researchers and resource managers knowing that it will not be released to the public. The release of this information to the general public could result in negative outcomes including encouraging trespass, potential harm to sensitive species, and putting small forest landowners at a business disadvantage. There have been occasions when state workers and landowners have been threatened and harassed because of some species interactions. This would provide important protection for landowners and cattle producers. If the data is shared with another Washington agency, it is still exempt from disclosure; however, if it is shared with the federal government or an

agency of another state, it could be subject to their public records requirements, and as a result, potentially released to the public. Since the confidentiality agreements are already a part of the WDFW's practice, this has not occurred, but this bill would close this loophole.

(Opposed) None.

Persons Testifying: Representative Van Werven, prime sponsor; Jason Callahan, Washington Forest Protection Association; William Falling, Department of Fish and Wildlife; and Cindy Alia, Cattle Producers of Washington and Citizens Alliance for Property Rights.

Persons Signed In To Testify But Not Testifying: None.