

# HOUSE BILL REPORT

## ESB 5761

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**As Passed House:**  
April 6, 2017

**Title:** An act relating to exempting certain confidential fish and shellfish harvest information from disclosure under chapter 42.56 RCW, the public records act.

**Brief Description:** Exempting certain confidential fish and shellfish harvest information from disclosure under chapter 42.56 RCW, the public records act.

**Sponsors:** Senators McCoy, Hunt and Hasegawa.

**Brief History:**

**Committee Activity:**

State Government, Elections & Information Technology: 3/15/17, 3/21/17 [DP].

**Floor Activity:**

Passed House: 4/6/17, 96-0.

**Brief Summary of Engrossed Bill**

- Exempts from public disclosure certain information regarding tribal fish and shellfish harvests and commercial shellfish harvests.

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**HOUSE COMMITTEE ON STATE GOVERNMENT, ELECTIONS & INFORMATION TECHNOLOGY**

**Majority Report:** Do pass. Signed by 9 members: Representatives Hudgins, Chair; Dolan, Vice Chair; Koster, Ranking Minority Member; Volz, Assistant Ranking Minority Member; Appleton, Gregerson, Irwin, Kraft and Pellicciotti.

**Staff:** Sean Flynn (786-7124).

**Background:**

*Fish and Shellfish Management.* The Washington Department of Fish and Wildlife (DFW) operates under a legislative mandate to preserve, protect, perpetuate, and manage the state's fish and wildlife populations. Such responsibilities include regulating the time, place, and

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manner of fishing and hunting activities, and requiring licenses for recreational and commercial purposes.

The DFW authority to regulate fishing and shellfish activities does not directly apply to tribal fisheries. Federal law recognizes that treaties created in the 1850s between the United States and certain Indian tribes reserved certain rights for the tribes, including the right to manage and harvest certain species of fish and shellfish in the state. Based on such treaty rights, federal courts have required the state and the treaty tribes to implement a co-management plan for tribal and state fisheries and coordinate the protection and harvest of fish and shellfish resources. The co-management plan provides for sharing information regarding state and tribal fishery activities.

*Public Records Act.* 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.

The PRA exempts from public disclosure certain fish and wildlife data that is collected and shared by the DFW for research and management purposes. Such information includes commercial fishing catch data that identifies specific location, timing, and methods that would create an unfair competitive disadvantage to the reporting party if such information were released.

The personal identifying information of recreational and commercial fishing licensees is exempt from disclosure, except for the person's name, contact address, and license type. The DFW may share licensee personal identifying information with other government agencies for purposes of fish and wildlife management, child support, and law enforcement. Finally, the PRA specifically recognizes that certain confidential information obtained by the DFW pursuant to federal law regarding the management of national and international fisheries is exempt from disclosure.

### **Summary of Bill:**

Certain information shared with the DFW regarding tribal fish and shellfish harvests are exempt from disclosure under the PRA. Such information includes the fisher's name and signature, total value of the harvest and value per species, the price per pound, and any tribal tax information.

Certain information regarding commercial shellfish harvest information is also exempt from disclosure, including an individual farmer's name and signature, total value of the harvest and value per species, the price per pound, and any tax information.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) Tribes share information with the state as part of the co-management. Information shared between tribes and the state is already confidential under the co-management agreement. Though personal information of tribal fishers should not be disclosed, there have been issues with the release of private information by the state from data reported on tribal catch tickets. State law should harmonize with federal protections of confidentiality. This exemption protects tribal fishers personal and financial information the same as protected for commercial and recreational fishers. The required reporting on the price paid to sell shellfish should not be disclosed.

(Opposed) None.

(Other) Some of the information gathered by the fishing reporting requirements is an important source of information that directly relates to the state's resource management responsibilities.

**Persons Testifying:** (In support) Senator McCoy, prime sponsor; Jeanne Cushman and Kevin Lyon, Squaxin Island Tribe; and Jim Jesernig, Pacific Coast Shellfish Growers.

(Other) Rowland Thompson, Allied Daily Newspapers of Washington.

**Persons Signed In To Testify But Not Testifying:** None.