

2 **ESHB 1771 - H COMM AMD ADOPTED 02/07/94**
3 By Committee on Fisheries & Wildlife

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5 Strike everything after the enacting clause and insert the
6 following:

7 "NEW SECTION. **Sec. 1.** The legislature finds that salmonids and
8 other fish are important to citizens of the state, and that numerous
9 stocks of salmonids are declining in Washington. Certain regulatory
10 protections exist for fish. One such protection is the statutory
11 requirement that certain water diversions be screened. Another is
12 that bypasses be constructed for fish passage. The legislature finds
13 that such protective devices are being intentionally destroyed,
14 damaged, or modified in ways that result in loss of fish, and that
15 existing penalties are insufficient to prevent such damage. The
16 legislature declares that measures must be taken to prevent destruction
17 of screens in order to benefit the salmonid resources of the state.

18 NEW SECTION. **Sec. 2.** A new section is added to chapter 77.16 RCW
19 to read as follows:

20 It is unlawful to intentionally destroy or damage fish guards,
21 screens, or bypasses. It is also unlawful to unnecessarily modify such
22 structures if the modification causes a substantial risk of death to
23 fish. Unnecessary modification includes modification other than that
24 necessary for maintenance and operation or research, provided such
25 maintenance and operation or research is conducted in a manner to
26 minimize risk of death to fish. The director may close a water
27 diversion device if the director finds that the holder of the water
28 right associated with the diversion has unlawfully destroyed, damaged,
29 or modified, or caused to be unlawfully destroyed, damaged, or
30 modified, a fish guard, screen, or bypass on the diversion and if such
31 closure does not affect water availability for any other water user.
32 If the unlawful destruction, damage, or modification by the water right
33 holder results in the loss of fish, the director may close the
34 diversion device if the closure does not affect water availability for
35 any other water user. Proceedings under this section shall be in

1 accordance with chapter 34.05 RCW. The water diversion device shall
2 remain closed until the holder of the water right has repaired or
3 replaced the fish guard, screen, or bypass to the satisfaction of the
4 director. For the first offense, the director may levy a civil penalty
5 of a minimum of two thousand five hundred dollars and not to exceed
6 five thousand dollars. For each subsequent offense, the director may
7 levy a civil penalty of a minimum of two thousand five hundred dollars
8 and not to exceed ten thousand dollars.

9 NEW SECTION. **Sec. 3.** A new section is added to chapter 75.20 RCW
10 to read as follows:

11 If fish are lost due to violations of section 2 of this act, the
12 violator shall reimburse the state for the value of the fish, as
13 determined by the director. Reimbursement moneys shall be deposited
14 into the state general fund."

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