

HOUSE BILL REPORT

HB 1771

As Reported By House Committee On:
Fisheries & Wildlife

Title: An act relating to protection of fish life.

Brief Description: Taking measures to prevent the destruction of fish protection devices.

Sponsors: Representatives King and Jacobsen.

Brief History:

Reported by House Committee on:
Fisheries & Wildlife, February 23, 1993, DPS.

HOUSE COMMITTEE ON FISHERIES & WILDLIFE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives King, Chair; Orr, Vice Chair; Fuhrman, Ranking Minority Member; Sehlin, Assistant Ranking Minority Member; Basich; Chappell; Foreman; and Scott.

Staff: Keitlyn Watson (786-7310).

Background: Water diversions for irrigation and public water systems are currently required by law to be equipped with a fish guard or screen or bypass (RCW 77.16.220 and RCW 75.20.040). The departments of Fisheries and Wildlife enforce these laws, and can close water diversion devices not in compliance. Violation of either of these laws is a gross misdemeanor (RCW 75.10.110 and RCW 77.21.010). Removal of or tampering with these devices may have a significant impact on fish populations by allowing juvenile fish into the irrigation or water system, or by not allowing passage of adult fish.

Summary of Substitute Bill: It is unlawful to destroy or damage a fish screen, guard or bypass, and to modify such a structure if the modification causes unnecessary damage to fish life. The departments of Fisheries and Wildlife are authorized to close a water diversion device if damage or destruction occurs, until the structures are replaced or repaired. If damage to fish life is caused by damage, destruction, or modification of the structures, the departments are required to close the devices until the structures are repaired or replaced. All closures may occur

only if no other water right holders are affected. The first offense is subject to a civil penalty of between \$2,500 and \$5,000, and any subsequent offense is subject to a civil penalty of between \$2,500 and \$10,000. Violators are required to reimburse the state for the value of fish lost, as determined by the departments of Fisheries and Wildlife.

Substitute Bill Compared to Original Bill: The original bill requires that the directors close a water diversion device if the associated fish protective structures have been damaged, destroyed or modified by the water right holder. The substitute bill removes this requirement and instead authorizes such a closure, and only requires the closure if there has been a loss of fish. A provision is added to the substitute bill that allows such closures only if other water users are unaffected.

The substitute bill authorizes a civil penalty for a first offense of between \$2,500 and \$5,000, and for a subsequent offense between \$2,500 and \$10,000. The penalty of loss of a water right associated with a subsequent offense is deleted.

Fiscal Note: Available.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: Fish guards, screens and bypass devices protect salmon and other fish. Destruction of required devices is detrimental to fish life. Proposed legislation allows for immediate department enforcement action when a required screen, guard or bypass is found to be destroyed or removed.

Testimony Against: None.

Witnesses: Cyreis Schmitt, Department of Fisheries (pro).