

HOUSE BILL REPORT

EHB 2396

As Amended by the Senate:

Title: An act relating to wildlife violations.

Brief Description: Clarifying wildlife violations relating to game birds, game animals, and game fish.

Sponsors: Representatives Fuhrman, Basich and Mastin; by request of Department of Fish and Wildlife.

Brief History:

Committee Activity:

Natural Resources: 1/17/96, 1/30/96 [DP].

Floor Activity:

Passed House: 2/7/96, 97-0.

Senate Amended.

HOUSE COMMITTEE ON NATURAL RESOURCES

Majority Report: Do pass. Signed by 12 members: Representatives Fuhrman, Chairman; Buck, Vice Chairman; Regala, Assistant Ranking Minority Member; Beeksma; Elliot; Jacobsen; Keiser; Sheldon; Stevens; B. Thomas; L. Thomas and Thompson.

Minority Report: Without recommendation. Signed by 3 members: Representatives Pennington, Vice Chairman; Basich, Ranking Minority Member; and Hatfield.

Staff: Susan Ronn (786-7292).

Background: Under current law, it is unlawful to hunt, fish, possess, or control a species of game bird, game animal, or game fish during the closed season for that species. It is also unlawful to kill, take, catch, possess, or control a game bird, game animal, or game fish in excess of the bag limit for that species. A violation of this statutory provision, when the violation involves big game, is a gross misdemeanor. Big game is defined by statute and includes whitetail, blacktail, and mule deer. Violations involving species that are not big game (or endangered) are misdemeanors.

The Fish and Wildlife Commission establishes hunting and fishing regulations which often provide that a season is open for a certain species with a distinguishing

characteristic. An example of an open season for a species with a distinguishing characteristic would be an open season for antlerless deer, or for buck deer only, or for deer with a minimum number of points on the antlers. When a hunter has violated these types of restrictions, it has been the practice to charge the hunter with unlawful hunting, and, if the species is a big game animal, the penalty has been for a gross misdemeanor.

Recently, a Washington appellate court found that a hunter who violated an antler point restriction was not guilty of a gross misdemeanor. The court ruled that the statute prohibits hunting during a closed season for a *species*. In this instance, the season was open for mule deer, but was limited as to the sex and size of the animal. Only male deer with a minimum of three antler points could be hunted. The court reasoned that because an animal's sex or antler point count does not define whether it belongs to a certain *species*, the season was not closed to the *species* of mule deer and therefore the hunter was not guilty of a violation of the statute. The court found that the hunter had violated the commission's restrictions, which is a misdemeanor.

Summary of Bill: The statute is revised to provide that in addition to being unlawful to hunt, fish, or possess a species of game bird, game animal, or game fish during a closed season, it is also unlawful to hunt, fish, or possess a member of the species with a distinguishing characteristic during the closed season for such game bird, game animal, or game fish. The revision also adds a violation for exceeding the bag limit for a member of the species with a distinguishing characteristic. Distinguishing characteristics include, but are not limited to size; sex; horn or antler presence, size, or number of points; fin clip; mark; or external tag. With regard to dusky Canada geese, neither bill length nor leg length may be considered as a distinguishing characteristic. A person who hunts, fishes, or possesses an animal without a required distinguishing characteristic, as defined by commission rules, is hunting, fishing, or possessing during a closed season. Also, a person who kills, takes, catches, possesses, or controls a member of the species with a distinguishing characteristic in excess of the bag limit fixed for the species is hunting, fishing, or possessing during a closed season.

The statute is also amended to require a catch record card to conduct certain activities. The statute previously required a punchcard. This revision brings this statute into conformity with other statutes recently amended.

EFFECT OF SENATE AMENDMENT(S): Technical changes have been made; the effect remains the same. Open and closed seasons are defined to clarify the commission's authority to open or close a season to hunting, fishing, or possessing a game animal, game bird, or game fish that conforms to certain special restrictions or physical descriptions. It is unlawful to hunt, fish, or possess a game animal, game bird, or game fish during the closed season. It is also unlawful to exceed the bag

limit for game animals, game birds, or game fish. Leg length and bill length may not be considered for dusky Canada geese.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: The bill properly amends the statute to restore the original legislative intent. It brings statute into conformity with department practices. It clarifies gross misdemeanor penalties for hunting violations involving big game.

Testimony Against: None.

Testified: Jim McAfee, Pierce County Sportsmen Council (pro); John Kelly, King County Outdoor Sports Council (pro); and Cyreis Schmitt, Washington Department of Fish and Wildlife (pro).