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HOUSE BILL 1000

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State of Washington

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By Representatives Fuhrman, Basich, Schoesler, Buck, Pennington, Elliot, Thompson, D. Schmidt, Sherstad, Benton, Dyer, Johnson, Beeksma, Goldsmith, Backlund, Crouse, Cairnes, Foreman, Van Luven, Mulliken, Boldt, McMorris, Sheldon, Huff, Talcott, McMahan and Stevens

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1 AN ACT Relating to endangered species; and amending RCW 77.08.010,  
2 77.12.020, 77.12.265, 77.16.120, 77.16.340, 77.21.070, 77.32.010, and  
3 90.48.366.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 77.08.010 and 1993 sp.s. c 2 s 66 are each amended to  
6 read as follows:

7 As used in this title or rules adopted pursuant to this title,  
8 unless the context clearly requires otherwise:

9 (1) "Director" means the director of fish and wildlife.

10 (2) "Department" means the department of fish and wildlife.

11 (3) "Commission" means the state fish and wildlife commission.

12 (4) "Person" means and includes an individual, a corporation, or a  
13 group of two or more individuals acting with a common purpose whether  
14 acting in an individual, representative, or official capacity.

15 (5) "Wildlife agent" means a person appointed and commissioned by  
16 the director, with authority to enforce laws and rules adopted pursuant  
17 to this title, and other statutes as prescribed by the legislature.

18 (6) "Ex officio wildlife agent" means a commissioned officer of a  
19 municipal, county, state, or federal agency having as its primary

1 function the enforcement of criminal laws in general, while the officer  
2 is in the appropriate jurisdiction. The term "ex officio wildlife  
3 agent" includes fisheries patrol officers, special agents of the  
4 national marine fisheries service, state parks commissioned officers,  
5 United States fish and wildlife special agents, department of natural  
6 resources enforcement officers, and United States forest service  
7 officers, while the agents and officers are within their respective  
8 jurisdictions.

9 (7) "To hunt" and its derivatives means an effort to kill, injure,  
10 capture, or harass a wild animal or wild bird.

11 (8) "To trap" and its derivatives means a method of hunting using  
12 devices to capture wild animals or wild birds.

13 (9) "To fish" and its derivatives means an effort to kill, injure,  
14 harass, or catch a game fish.

15 (10) "Open season" means those times, manners of taking, and places  
16 or waters established by rule of the commission for the lawful hunting,  
17 fishing, or possession of game animals, game birds, or game fish.  
18 "Open season" includes the first and last days of the established time.

19 (11) "Closed season" means all times, manners of taking, and places  
20 or waters other than those established as an open season.

21 (12) "Closed area" means a place where the hunting of some species  
22 of wild animals or wild birds is prohibited.

23 (13) "Closed waters" means all or part of a lake, river, stream, or  
24 other body of water, where fishing for game fish is prohibited.

25 (14) "Game reserve" means a closed area where hunting for all wild  
26 animals and wild birds is prohibited.

27 (15) "Bag limit" means the maximum number of game animals, game  
28 birds, or game fish which may be taken, caught, killed, or possessed by  
29 a person, as specified by rule of the commission for a particular  
30 period of time, or as to size, sex, or species.

31 (16) "Wildlife" means all species of the animal kingdom whose  
32 members exist in Washington in a wild state. This includes but is not  
33 limited to mammals, birds, reptiles, amphibians, fish, and  
34 invertebrates. The term "wildlife" does not include feral domestic  
35 mammals, the family Muridae of the order Rodentia (old world rats and  
36 mice), or those fish, shellfish, and marine invertebrates classified as  
37 food fish or shellfish by the director. The term "wildlife" includes  
38 all stages of development and the bodily parts of wildlife members.

1 (17) "Wild animals" means those species of the class Mammalia whose  
2 members exist in Washington in a wild state and the species Rana  
3 catesbeiana (bullfrog). The term "wild animal" does not include feral  
4 domestic mammals or the family Muridae of the order Rodentia (old world  
5 rats and mice).

6 (18) "Wild birds" means those species of the class Aves whose  
7 members exist in Washington in a wild state.

8 ~~(19) ("Protected wildlife" means wildlife designated by the  
9 commission that shall not be hunted or fished.~~

10 ~~(20))~~ "Endangered species" means wildlife designated ~~((by the  
11 commission as seriously threatened with extinction))~~ as endangered  
12 under the federal endangered species act.

13 ~~((21))~~ (20) "Game animals" means wild animals that shall not be  
14 hunted except as authorized by the commission.

15 ~~((22))~~ (21) "Fur-bearing animals" means game animals that shall  
16 not be trapped except as authorized by the commission.

17 ~~((23))~~ (22) "Game birds" means wild birds that shall not be  
18 hunted except as authorized by the commission.

19 ~~((24))~~ (23) "Predatory birds" means wild birds that may be hunted  
20 throughout the year as authorized by the commission.

21 ~~((25))~~ (24) "Deleterious exotic wildlife" means species of the  
22 animal kingdom not native to Washington and designated as dangerous to  
23 the environment or wildlife of the state.

24 ~~((26))~~ (25) "Game farm" means property on which wildlife is held  
25 or raised for commercial purposes, trade, or gift. The term "game  
26 farm" does not include publicly owned facilities.

27 ~~((27))~~ (26) "Person of disability" means a permanently disabled  
28 person who is not ambulatory without the assistance of a wheelchair,  
29 crutches, or similar devices.

30 **Sec. 2.** RCW 77.12.020 and 1994 c 264 s 53 are each amended to read  
31 as follows:

32 (1) The director shall investigate the habits and distribution of  
33 the various species of wildlife native to or adaptable to the habitats  
34 of the state. The commission shall determine whether a species should  
35 be managed by the department and, if so, classify it under this  
36 section.

37 (2) The commission may classify by rule wild animals as game  
38 animals and game animals as fur-bearing animals.

1 (3) The commission may classify by rule wild birds as game birds or  
2 predatory birds. All wild birds not otherwise classified are protected  
3 wildlife.

4 (4) In addition to those species listed in RCW 77.08.020, the  
5 commission may classify by rule as game fish other species of the class  
6 Osteichthyes that are commonly found in fresh water except those  
7 classified as food fish by the director.

8 ~~(5) ((The director may recommend to the commission that a species  
9 of wildlife should not be hunted or fished. The commission may  
10 designate species of wildlife as protected.~~

11 ~~(6) If the director determines that a species of wildlife is  
12 seriously threatened with extinction in the state of Washington, the  
13 director may request its designation as an endangered species. The  
14 commission may designate an endangered species.~~

15 ~~(7))~~ If the director determines that a species of the animal  
16 kingdom, not native to Washington, is dangerous to the environment or  
17 wildlife of the state, the director may request its designation as  
18 deleterious exotic wildlife. The commission may designate deleterious  
19 exotic wildlife.

20 **Sec. 3.** RCW 77.12.265 and 1987 c 506 s 35 are each amended to read  
21 as follows:

22 The owner or tenant of real property may trap or kill on that  
23 property wild animals or wild birds, other than an endangered species,  
24 that is damaging crops, domestic animals, fowl, or other property.  
25 Except in emergency situations, deer, and elk(~~(, and protected~~  
26 ~~wildlife))~~ shall not be killed without a permit issued and conditioned  
27 by the director. The director may delegate this authority.

28 For the purposes of this section, "emergency" means an unforeseen  
29 circumstance beyond the control of the landowner or tenant that  
30 presents a real and immediate threat to crops, domestic animals, fowl,  
31 or other property.

32 Alternatively, when sufficient time for the issuance of a permit by  
33 the director is not available, verbal permission may be given by the  
34 appropriate department regional administrator to owners or tenants of  
35 real property to trap or kill on that property any deer, elk, or  
36 protected wildlife which is damaging crops, domestic animals, fowl, or  
37 other property. The regional administrator may delegate, in writing,  
38 a member of the regional staff to give the required permission in these

1 emergency situations. Nothing in this section authorizes in any  
2 situation the trapping, hunting, or killing of an endangered species.

3 Wildlife trapped or killed under this section remains the property  
4 of the state, and the person trapping or killing the wildlife shall  
5 notify the department immediately. The director shall dispose of  
6 wildlife so taken within three working days of receiving such a  
7 notification.

8 If the department receives recurring complaints regarding property  
9 being damaged as described in this section from the owner or tenant of  
10 real property, or receives such complaints from several such owners or  
11 tenants in a locale, the commission shall consider conducting a special  
12 hunt or special hunts to reduce the potential for such damage.

13 For purposes of this section, "crop" means an agricultural or  
14 horticultural product growing or harvested and includes wild shrubs and  
15 range land vegetation on privately owned cattle ranching lands. On  
16 such lands, the land owner or lessee may declare an emergency when the  
17 department has not responded within forty-eight hours after having been  
18 contacted by the land owner or lessee regarding crop damage by wild  
19 animals or wild birds. However, the department shall not allow claims  
20 for damage to wild shrubs or range land vegetation on such lands.

21 Deer and elk shall not be killed under the authority of this  
22 section on privately owned cattle ranching lands that were closed to  
23 public hunting during the previous hunting season, except for land  
24 closures which are coordinated with the department to protect property  
25 and livestock.

26 The department shall work closely with landowners and tenants  
27 suffering game damage problems to control damage without killing the  
28 animals when practical, to increase the harvest of damage-causing  
29 animals in hunting seasons, or to kill the animals when no other  
30 practical means of damage control is feasible.

31 **Sec. 4.** RCW 77.16.120 and 1980 c 78 s 81 are each amended to read  
32 as follows:

33 Except as authorized by rule of the commission, it is unlawful to  
34 hunt, fish for, possess, or control (~~(protected wildlife, or)~~)  
35 endangered species or to destroy or possess the nests or eggs of game  
36 birds or (~~(protected wildlife)~~) endangered species.

1       **Sec. 5.** RCW 77.16.340 and 1988 c 265 s 1 are each amended to read  
2 as follows:

3       (1) A person commits the crime of obstructing the taking of fish or  
4 wildlife if the person:

5       (a) Harasses, drives, or disturbs fish or wildlife with the intent  
6 of disrupting lawful pursuit or taking thereof; or

7       (b) Harasses, interferes with, or intimidates an individual engaged  
8 in the lawful taking of fish or wildlife or lawful predator control.

9       (2) Violation of this section is a gross misdemeanor under RCW  
10 77.21.010.

11       (3) It is a defense to any prosecution under subsection (1) of this  
12 section, if the person charged:

13       (a) Interferes with any person engaged in hunting outside legally  
14 established hunting seasons;

15       (b) Is preventing or attempting to prevent the injury or killing of  
16 (~~a protected wildlife~~) an endangered species, as defined by this  
17 title;

18       (c) Is preventing or attempting to prevent unauthorized trespass on  
19 private property; or

20       (d) Is defending oneself or another person from bodily harm or  
21 property damage by a person attempting to prevent hunting in a legally  
22 established hunting season.

23       **Sec. 6.** RCW 77.21.070 and 1989 c 11 s 28 are each amended to read  
24 as follows:

25       (1) Whenever a person is convicted of illegal killing or possession  
26 of wildlife listed in this subsection, the convicting court shall order  
27 the person to reimburse the state in the following amounts for each  
28 animal killed or possessed:

- 29 (a) Moose, antelope, mountain sheep, and mountain goat(~~(, and all~~  
30 ~~wildlife species classified as endangered by rule of the~~  
31 ~~commission))~~ . . . . . \$2,000  
32 (b) Elk, deer, black bear, and cougar . . . . . \$1,000  
33 (c) Mountain caribou and grizzly bear . . . . . \$5,000

34       (2) For the purpose of this section, the term "convicted" includes  
35 a plea of guilty, a finding of guilt regardless of whether the  
36 imposition of the sentence is deferred or any part of the penalty is  
37 suspended, and the payment of a fine. No court may establish bail for

1 illegal possession of wildlife listed in subsection (1) in an amount  
2 less than the bail established for hunting during the closed season  
3 plus the reimbursement value of wildlife set forth in subsection (1).

4 (3) If two or more persons are convicted of illegally possessing  
5 wildlife listed in this section, the reimbursement amount shall be  
6 imposed upon them jointly and separately.

7 (4) The reimbursement amount provided in this section shall be  
8 imposed in addition to and regardless of any penalty, including fines,  
9 or costs, that is provided for violating any provision of Title 77 RCW.  
10 The reimbursement required by this section shall be included by the  
11 court in any pronouncement of sentence and may not be suspended,  
12 waived, modified, or deferred in any respect. Nothing in this section  
13 may be construed to abridge or alter alternative rights of action or  
14 remedies in equity or under common law or statutory law, criminal or  
15 civil.

16 (5) A defaulted reimbursement or any installment payment thereof  
17 may be collected by any means authorized by law for the enforcement of  
18 orders of the court or collection of a fine or costs, including  
19 vacation of a deferral of sentencing or of a suspension of sentence.

20 **Sec. 7.** RCW 77.32.010 and 1987 c 506 s 76 are each amended to read  
21 as follows:

22 (1) Except as otherwise provided in this chapter, a license issued  
23 by the director is required to:

24 (a) Hunt for wild animals or wild birds or fish for game fish;

25 (b) Practice taxidermy for profit;

26 (c) Deal in raw furs for profit;

27 (d) Act as a fishing guide;

28 (e) Operate a game farm;

29 (f) Purchase or sell anadromous game fish; or

30 (g) Use department-managed lands or facilities as provided by rules  
31 adopted pursuant to this title.

32 (2) A permit issued by the director is required to:

33 (a) Conduct, hold, or sponsor hunting or fishing contests or  
34 competitive field trials using live wildlife;

35 (b) Collect wild animals, wild birds, game fish, or ((protected  
36 wildlife)) endangered species for research or display; or

37 (c) Stock game fish.

1 (3) Aquaculture as defined in RCW 15.85.020 is exempt from the  
2 requirements of this section, except when being stocked in public  
3 waters under contract with the department.

4 **Sec. 8.** RCW 90.48.366 and 1994 1st sp.s. c 9 s 855 are each  
5 amended to read as follows:

6 By July 1, 1991, the department, in consultation with the  
7 departments of (~~fisheries,~~) fish and wildlife(~~(,)~~) and natural  
8 resources, and the parks and recreation commission, shall adopt rules  
9 establishing a compensation schedule for the discharge of oil in  
10 violation of this chapter and chapter 90.56 RCW. The amount of  
11 compensation assessed under this schedule shall be no less than one  
12 dollar per gallon of oil spilled and no greater than fifty dollars per  
13 gallon of oil spilled. The compensation schedule shall reflect  
14 adequate compensation for unquantifiable damages or for damages not  
15 quantifiable at reasonable cost for any adverse environmental,  
16 recreational, aesthetic, or other effects caused by the spill and shall  
17 take into account:

18 (1) Characteristics of any oil spilled, such as toxicity,  
19 dispersibility, solubility, and persistence, that may affect the  
20 severity of the effects on the receiving environment, living organisms,  
21 and recreational and aesthetic resources;

22 (2) The sensitivity of the affected area as determined by such  
23 factors as: (a) The location of the spill; (b) habitat and living  
24 resource sensitivity; (c) seasonal distribution or sensitivity of  
25 living resources; (d) areas of recreational use or aesthetic  
26 importance; (e) the proximity of the spill to important habitats for  
27 birds, aquatic mammals, fish, or to species listed as threatened or  
28 endangered under (~~state or~~) federal law; (f) significant  
29 archaeological resources as determined by the office of archaeology and  
30 historic preservation; and (g) other areas of special ecological or  
31 recreational importance, as determined by the department. If the  
32 department has adopted rules for a compensation table prior to July 1,  
33 1992, the sensitivity of significant archaeological resources shall  
34 only be included among factors to be used in the compensation table  
35 when the department revises the rules for the compensation table after  
36 July 1, 1992; and

37 (3) Actions taken by the party who spilled oil or any party liable  
38 for the spill that: (a) Demonstrate a recognition and affirmative

1 acceptance of responsibility for the spill, such as the immediate  
2 removal of oil and the amount of oil removed from the environment; or  
3 (b) enhance or impede the detection of the spill, the determination of  
4 the quantity of oil spilled, or the extent of damage, including the  
5 unauthorized removal of evidence such as injured fish or wildlife.

--- END ---