
ENGROSSED SUBSTITUTE HOUSE BILL 1286

State of Washington

57th Legislature

2001 Regular Session

By House Committee on Natural Resources (originally sponsored by Representatives Lisk, Grant, Sump, Cox, Doumit, G. Chandler, Mulliken, Mielke, Clements, Lambert, Hankins, Pflug, Dunn, B. Chandler, Buck, Cairnes, Pennington, Boldt, Hatfield, Delvin, Armstrong, Skinner, Alexander, Kessler, Pearson, D. Schmidt, Anderson, Rockefeller and Esser)

READ FIRST TIME 02/27/01.

1 AN ACT Relating to the use of viable salmon eggs; amending RCW
2 77.95.210, 77.95.270, 77.100.050, and 77.100.060; adding a new
3 section to chapter 77.04 RCW; and declaring an emergency.

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

5 **Sec. 1.** RCW 77.95.210 and 2000 c 107 s 11 are each amended to read
6 as follows:

7 (1) Except as provided in subsection (2) of this section, the
8 department may supply, at a reasonable charge, surplus salmon eggs
9 to a person for use in the cultivation of salmon. The department
10 shall not intentionally create a surplus of salmon to provide eggs
11 for sale. The department shall only sell salmon eggs from stocks
12 that are not suitable for salmon population rehabilitation or
13 enhancement in state waters in Washington after the salmon harvest
14 on surplus salmon has been first maximized by both commercial and
15 recreational fishers.

16 (2) The department shall not destroy hatchery origin salmon for
17 the purposes of destroying viable eggs that would otherwise be
18 useful for propagation or salmon recovery purposes, as determined

1 by the department or federally approved tribes in Washington, for
2 replenishing fish runs. Eggs deemed surplus by the state must be
3 provided, in the following order of priority, to:

4 (a) Hatcheries of federally approved tribes in Washington to
5 whom eggs are moved, not sold, under the interlocal cooperation
6 act, chapter 39.34 RCW;

7 (b) Voluntary cooperative salmon culture programs under the
8 supervision of the department under chapter 77.100 RCW;

9 (c) Regional fisheries enhancement group salmon culture
10 programs under supervision of the department under this chapter;

11 (d) Governmental hatcheries in Washington, Oregon, and Idaho;

12 (e) Salmon culture programs requested by lead entities and
13 approved by the salmon funding recovery board under chapter 77.85
14 RCW.

15 The order of priority established in this subsection for
16 distributing surplus eggs does not apply when there is a shortfall
17 in the supply of eggs.

18 (3) All sales or transfers shall be consistent with the
19 department's egg transfer and aquaculture disease control
20 regulations as now existing or hereafter amended. Prior to
21 department determination that eggs of a salmon stock are surplus
22 and available for sale, the department shall assess the
23 productivity of each watershed that is suitable for receiving
24 eggs.

25 **Sec. 2.** RCW 77.95.270 and 1989 c 336 s 6 are each amended to read
26 as follows:

27 Except as provided in RCW 77.95.210, the department may make
28 available to private contractors salmon eggs in excess of
29 department hatchery needs for the purpose of contract rearing to
30 release the smolts into public waters. However, providing salmon
31 eggs as specified in RCW 77.95.210(2) has the highest priority.
32 The priority of providing eggs surplus after meeting the
33 requirements of RCW 77.95.210(2) to contract rearing (~~shall be~~)
34 is a higher priority than providing eggs to aquaculture purposes
35 (~~which~~) that are not destined for release into Washington public
36 waters.

1 **Sec. 3.** RCW 77.100.050 and 1987 c 505 s 73 are each amended to
2 read as follows:

3 (1) The department shall:

4 (a) Encourage and support the establishment of cooperative
5 agreements for the development and operation of cooperative food
6 fish, shellfish, game fish, game bird, game animal, and nongame
7 wildlife projects, and projects which provide an opportunity for
8 volunteer groups to become involved in resource and habitat-
9 oriented activities. All cooperative projects shall be fairly
10 considered in the approval of cooperative agreements;

11 (b) Identify regions and species or activities that would be
12 particularly suitable for cooperative projects providing benefits
13 compatible with department goals;

14 (c) Determine the availability of rearing space at operating
15 facilities or of net pens, egg boxes, portable rearing containers,
16 incubators, and any other rearing facilities for use in
17 cooperative projects, and allocate them to volunteer groups as
18 fairly as possible;

19 (d) Make viable eggs available for replenishing fish runs, and
20 salmon carcasses for nutrient enhancement of streams. If a regional
21 fisheries enhancement group, lead entity, volunteer cooperative
22 group, federally approved tribe in Washington, or a governmental
23 hatchery in Washington, Oregon, or Idaho requests the department
24 for viable eggs, the department must include the request within
25 the brood stock document prepared for use by the regional
26 offices. The eggs shall be distributed in accordance with the
27 priority established in RCW 77.95.210 if they are available. A
28 request for viable eggs may only be denied if the eggs would not
29 be useful for propagation or salmon recovery purposes, as
30 determined under RCW 77.95.210.

31 (e) Exempt volunteer groups from payment of fees to the
32 department for activities related to the project;

33 ~~((e))~~ (f) Publicize the cooperative program;

34 ~~((f))~~ (g) Not substitute a new cooperative project for any
35 part of the department's program unless mutually agreeable to the
36 department and volunteer group;

37 ~~((g))~~ (h) Not approve agreements that are incompatible with
38 legally existing land, water, or property rights.

1 (2) The department may, when requested, provide to volunteer
2 groups its available professional expertise and assist the
3 volunteer group to evaluate its project. The department must
4 conduct annual workshops in each administrative region of the
5 department that has fish stocks listed as threatened or endangered
6 under the federal endangered species act, 16 U.S.C. Sec. 1531 et
7 seq., in order to assist volunteer groups with egg rearing, share
8 information on successful salmon recovery projects accomplished by
9 volunteers within the state, and provide basic training on
10 monitoring efforts that can be accomplished by volunteers in order
11 to help determine if their efforts are successful.

12 **Sec. 4.** RCW 77.100.060 and 2000 c 107 s 112 are each amended to
13 read as follows:

14 The commission shall establish by rule:

15 (1) The procedure for entering a cooperative agreement and the
16 application forms for a permit to release fish or wildlife
17 required by RCW 77.12.457. The procedure shall indicate the
18 information required from the volunteer group as well as the
19 process of review by the department. The process of review shall
20 include the means to coordinate with other agencies and Indian
21 tribes when appropriate and to coordinate the review of any
22 necessary hydraulic permit approval applications.

23 (2) The procedure for providing within forty-five days of
24 receipt of a proposal a written response to the volunteer group
25 indicating the date by which an acceptance or rejection of the
26 proposal can be expected, the reason why the date was selected,
27 and a written summary of the process of review. The response should
28 also include any suggested modifications to the proposal which
29 would increase its likelihood of approval and the date by which
30 such modified proposal could be expected to be accepted. If the
31 proposal is rejected, the department must provide in writing the
32 reasons for rejection. The volunteer group may request the director
33 or the director's designee to review information provided in the
34 response.

35 (3) The priority of the uses to which eggs, seed, juveniles, or
36 brood stock are put. Use by cooperative projects shall be second in
37 priority only to the needs of programs of the department or of

1 other public agencies within the territorial boundaries of the
2 state. Sales of eggs, seed, juveniles, or brood stock have a lower
3 priority than use for cooperative projects. The rules must include
4 directives for allowing more hatchery salmon to spawn naturally,
5 including the outplanting of adult fish particularly in areas
6 where progeny of hatchery fish have spawned, in order to increase
7 the number of viable salmon eggs and restore healthy numbers of
8 fish within the state.

9 (4) The procedure for the director to notify a volunteer group
10 that the agreement for the project is being revoked for cause and
11 the procedure for revocation. Revocation shall be documented in
12 writing to the volunteer group. Cause for revocation may
13 include: (a) The unavailability of adequate biological or financial
14 resources; (b) the development of unacceptable biological or
15 resource management conflicts; or (c) a violation of agreement
16 provisions. Notice of cause to revoke for a violation of agreement
17 provisions may specify a reasonable period of time within which
18 the volunteer group must comply with any violated provisions of
19 the agreement.

20 (5) An appropriate method of distributing among volunteer
21 groups fish, bird, or animal food or other supplies available for
22 the program.

23 NEW SECTION. Sec. 5. A new section is added to chapter 77.04
24 RCW to read as follows:

25 (1) The department shall prepare an annual surplus salmon
26 report. This report shall include the disposition of adult
27 salmonids that have returned to salmonid hatchery facilities
28 operated under the jurisdiction of the state that:

29 (a) Have not been harvested; and

30 (b) Were not allowed to escape for natural spawning.

31 (2) The report shall include by species, the number and
32 estimated weight of surplus salmon and steelhead and a description
33 of the disposition of the adult carcasses including, but not
34 limited to, the following categories:

35 (a) Disposed in landfills;

36 (b) Transferred to another government agency for reproductive
37 purposes;

- 1 (c) Sold to contract buyers in the round;
- 2 (d) Sold to contract buyers after spawning;
- 3 (e) Transferred to Native American tribes;
- 4 (f) Donated to food banks; and
- 5 (g) Used in stream nutrient enrichment programs.

6 (3) The report shall also include by species, information on
7 the number of requests for viable salmon eggs, the number of these
8 requests that were granted and the number that were denied, the
9 geographic areas for which these requests were granted or denied,
10 and a brief explanation given for each denial of a request for
11 viable salmon eggs.

12 (4) The report shall also be included in the biennial state of
13 the salmon report required by RCW 77.85.020 and other similar
14 state reports on salmon.

15 NEW SECTION. **Sec. 6.** This act is necessary for the immediate
16 preservation of the public peace, health, or safety, or support of
17 the state government and its existing public institutions, and
18 takes effect immediately.

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