

# SENATE BILL REPORT

## HB 1128

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As Reported By Senate Committee On:  
Natural Resources, Ocean & Recreation, March 30, 2005

**Title:** An act relating to the definition of the term "conviction" in chapter 77.15 RCW.

**Brief Description:** Modifying the definition of "conviction" for chapter 77.15 RCW.

**Sponsors:** Representative Nixon.

**Brief History:** Passed House: 3/03/05, 97-0.

**Committee Activity:** Natural Resources, Ocean & Recreation: 3/17/05, 3/30/05 [DP].

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### SENATE COMMITTEE ON NATURAL RESOURCES, OCEAN & RECREATION

**Majority Report:** Do pass.

Signed by Senators Jacobsen, Chair; Doumit, Vice Chair; Oke, Ranking Minority Member; Fraser, Morton, Spanel, Stevens and Swecker.

**Staff:** Curt Gavigan (786-7437)

**Background:** The Fish and Wildlife Enforcement Code (Code) contains a number of unlawful acts that relate to hunting, fishing, and other wildlife related activities. Throughout the Code, the term "conviction" is used to assign sanctions to a person found in violation of a fish or wildlife law. For instance, any fish or wildlife unlawfully harvested must be surrendered to the state, but only upon conviction of a Code violation. Similarly, the Department of Fish and Wildlife (Department) may revoke the license, tag, or stamp of any person who is convicted of a violation of the Code, and must revoke for one year all of the commercial fishing privileges of a person convicted of unlawfully using a non-designated vessel for fishing.

Past convictions also serve as an element of certain crimes in the Code. A person can only be found guilty of the unlawful taking of endangered fish and wildlife in the first degree if that person was convicted of the same crime in the second degree within the past five years. Likewise, a conviction of a crime related to the taking of big game is a necessary element that must be proved before a person can be charged with the unlawful taking of big game in the first degree.

The term "conviction" is defined in the Code to mean "a final conviction in a state or municipal court or an unvacated forfeiture of bail or collateral deposited to secure the defendant's appearance in court. A plea of guilty, or a finding of guilt for a violation of this title or rule of the commission or director constitutes a conviction..."

Some violations of the Code are punished not as criminal acts, but as civil infractions. For instance, a person found guilty of fishing in violation of a rule adopted as an infraction by the

Fish and Wildlife Commission would be punished for a natural resources infraction, but not for a misdemeanor or felony.

**Summary of Bill:** The definition of the term "conviction" in the Code is expanded to include uncontested notices of infraction, judgements or findings that an infraction has been committed, or failures to appear after requesting a hearing to challenge an infraction. In addition, the Fish and Wildlife Commission may adopt rules that designate infractions that are not included in the definition of "conviction."

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Committee/Commission/Task Force Created:** No.

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

**Testimony For:** This bill gives the Fish and Wildlife Commission the authority to decriminalize certain recreational hunting and fishing violations, and still allow multiple violators to have their hunting and fishing rights suspended. Decriminalizing certain fishing violations allows the Department to ticket fishers unknowingly violating the rules without charging the person with a crime.

**Testimony Against:** Altering the definition of the term conviction will create confusion and could cause those receiving infractions to mistakenly think that they have been convicted of a crime. This could result in people incorrectly indicating that they have received a conviction when participating on a jury, voting, or on job applications.

**Who Testified:** PRO: Representative Nixon; Ed Owens, Coalition of Coastal Fisheries; Dan Brinson, Department of Fish and Wildlife.

CON: Melanie Stewart, Washington Municipal and District Court Judges.