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**SUBSTITUTE SENATE BILL 5102**

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**State of Washington**

**52nd Legislature**

**1991 Regular Session**

**By** Senate Committee on Environment & Natural Resources (originally sponsored by Senators Metcalf, Owen, Sutherland, Snyder, McMullen, L. Kreidler and Roach).

Read first time February 8, 1991.

1       AN ACT Relating to game and game fish penalties; amending RCW  
2       77.21.010 and 77.21.070; and prescribing penalties.

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

4       **Sec. 1.** RCW 77.21.010 and 1988 c 265 s 3 are each amended to read  
5       as follows:

6       (1) A person violating RCW 77.16.040, 77.16.050, 77.16.060,  
7       77.16.080, 77.16.210, 77.16.220, 77.16.310, 77.16.320, or 77.32.211, or  
8       committing a violation of RCW 77.16.020 or 77.16.120 involving  
9       77.16.210, 77.16.220, 77.16.310, 77.16.320, 77.16.340, or 77.32.211, or  
10       committing a violation of RCW 77.16.020 or 77.16.120 involving big game  
11       or an endangered species is guilty of a gross misdemeanor and shall be  
12       punished (~~((by a fine of not less than two hundred fifty dollars and not~~  
13       ~~more than one thousand dollars or by imprisonment in the county jail~~  
14       ~~for not less than thirty days and not more than one year or by both the~~  
15       ~~fine and imprisonment))~~ in accordance with penalties set forth in RCW

1 9.92.020, but the minimum fine shall be two hundred fifty dollars.  
2 Each subsequent violation within a five-year period of RCW 77.16.040,  
3 77.16.050, or 77.16.060, or of RCW 77.16.020 or 77.16.120 involving big  
4 game or an endangered species, as defined by the commission under the  
5 authority of RCW 77.04.090, shall be prosecuted and punished as a class  
6 C felony as defined in RCW 9A.20.020. In connection with each such  
7 felony prosecution, the director shall provide the court with an  
8 inventory of all articles or devices seized under this title in  
9 connection with the violation. Inventoried articles or devices shall be  
10 disposed of pursuant to RCW 77.21.040.

11 (2) A person violating or failing to comply with this title or  
12 rules adopted pursuant to this title for which no penalty is otherwise  
13 provided is guilty of a misdemeanor and shall be punished for each  
14 offense by a fine of five hundred dollars or by imprisonment for not  
15 more than ninety days in the county jail or by both the fine and  
16 imprisonment. The commission may provide, when not inconsistent with  
17 applicable statutes, that violation of a specific rule is an infraction  
18 under chapter 7.84 RCW.

19 (3) A person placing traps on private property without permission  
20 of the owner, lessee, or tenant where the land is improved and  
21 apparently used, or where the land is fenced or enclosed in a manner  
22 designed to exclude intruders or to indicate a property boundary line,  
23 or where notice is given by posting in a conspicuous manner, is guilty  
24 of the misdemeanor of trespass as defined and established in RCW  
25 9A.52.010 and 9A.52.080 and shall be punished for each offense by a  
26 fine of not less than two hundred fifty dollars.

27 (4) Persons convicted of a violation shall pay the costs of  
28 prosecution and the penalty assessment in addition to the fine or  
29 imprisonment.

1 (5) The unlawful killing, taking, or possession of each wildlife  
2 member constitutes a separate offense.

3 (6) District courts have jurisdiction concurrent with the superior  
4 courts of misdemeanors and gross misdemeanors committed in violation of  
5 this title or rules adopted pursuant to this title and may impose the  
6 punishment provided for these offenses. Superior courts have  
7 jurisdiction over felonies committed in violation of this title.

8 **Sec. 2.** RCW 77.21.070 and 1989 c 11 s 28 are each amended to read  
9 as follows:

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

- 14 (a) Moose, antelope, mountain sheep, mountain goat,  
15 and all wildlife species classified as endangered  
16 by rule of the commission.....\$2,000  
17 (b) Elk, deer, black bear, and cougar.....\$1,000  
18 (c) Mountain caribou and grizzly bear.....\$5,000

19 (2) For the purpose of this section, the term "convicted" includes  
20 a plea of guilty, a finding of guilt regardless of whether the  
21 imposition of the sentence is deferred or any part of the penalty is  
22 suspended, and the payment of a fine. No part of any fine or other  
23 criminal penalty imposed may be suspended or deferred, in whole or in  
24 part, until moneys ordered to be reimbursed under this section have  
25 been paid. No court may establish bail for illegal possession of  
26 wildlife listed in subsection (1) in an amount less than the bail

1 established for hunting during the closed season plus the reimbursement  
2 value of wildlife set forth in subsection (1).

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

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

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

19 (6) Moneys paid under this section shall be credited to the special  
20 wildlife account established in RCW 77.12.323 for the purpose of  
21 enforcement of this title.