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SENATE BILL 6046

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State of Washington

52nd Legislature

1992 Regular Session

By Senators L. Smith and Anderson

Read first time 01/13/92. Referred to Committee on Environment & Natural Resources.

1 AN ACT Relating to fisheries patrol officers and wildlife agents;  
2 amending RCW 4.24.350, 10.93.020, 46.09.200, 46.10.200, 69.30.110,  
3 69.30.120, 70.93.050, 75.08.160, 75.10.020, 75.10.030, 75.10.040,  
4 75.10.160, 75.25.140, 75.25.170, 76.04.045, 76.48.040, 77.08.010,  
5 77.12.055, 77.12.060, 77.12.620, 77.16.610, 77.32.250, 77.32.380, and  
6 91.14.100; reenacting and amending RCW 75.08.011; adding new sections  
7 to chapter 43.43 RCW; adding a new section to Title 75 RCW; adding a  
8 new section to Title 77 RCW; creating new sections; repealing RCW  
9 75.08.206, 75.08.208, and 75.10.010; and providing an effective date.

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

11 NEW SECTION. **Sec. 1.** The legislature finds that a  
12 consolidation of fisheries patrol officers and wildlife agents into the  
13 Washington state patrol would be beneficial to the fish and wildlife  
14 resources, the public, and the individual enforcement officers. Many

1 opportunities to improve enforcement of fish and wildlife laws will  
2 result from consolidation. The public will benefit from improved  
3 resource protection and from increased efficiency. The officers will  
4 benefit from improved morale, increased compensation, greater  
5 advancement opportunity, improved equipment, and increased training.

6 The goal of sections 1 through 6 of this act is a consolidated fish  
7 and wildlife enforcement division that will function as a well equipped  
8 and highly professional unit, that will produce increased public  
9 support, and be an important part of the Washington state patrol.

10 NEW SECTION. **Sec. 2.** The Washington state patrol has the  
11 authority and duty to enforce Titles 75 and 77 RCW, and the rules  
12 adopted under those titles, relating to the time, place and manner of  
13 taking food fish, shellfish, game fish, game animals, fur-bearing  
14 animals, protected wildlife, predatory animals, predatory birds, and  
15 game birds. All personnel directly engaged in the enforcement of  
16 Titles 75 and 77 RCW shall be transferred to and become employees of  
17 the state patrol. The chief of the state patrol shall establish a  
18 special program for commissioning enforcement officers transferred to  
19 the patrol from the fisheries and wildlife departments. Transferred  
20 enforcement officers shall enforce Titles 75 and 77 RCW until and after  
21 such time as they become commissioned officers.

22 NEW SECTION. **Sec. 3.** The chief of the state patrol may  
23 purchase, construct, lease, and operate such equipment, vehicles,  
24 aircraft, boats, and supplies as are necessary to carry out the duties  
25 of the state patrol under section 2 of this act.

26 NEW SECTION. **Sec. 4.** A new section is added to Title 75 RCW to  
27 read as follows:

1 All personnel engaged in the enforcement of this title and the  
2 rules adopted under this title shall be employed, supervised, and  
3 controlled by the chief of the state patrol, who shall be the sole  
4 official charged with enforcement of this title.

5 NEW SECTION. **Sec. 5.** A new section is added to Title 77 RCW to  
6 read as follows:

7 All personnel engaged in the enforcement of this title and the  
8 rules adopted under this title shall be employed, supervised, and  
9 controlled by the chief of the state patrol, who shall be the sole  
10 official charged with enforcement of this title.

11 NEW SECTION. **Sec. 6.** Employees of the department of fisheries  
12 and the department of wildlife transferred to the state patrol shall  
13 have the option to retain membership in the retirement system in which  
14 they were members prior to the transfer, or to become members of the  
15 state patrol retirement system upon being commissioned.

16 NEW SECTION. **Sec. 7.** All powers, duties, and functions of the  
17 departments of fisheries and wildlife pertaining to enforcement of  
18 Titles 75 and 77 RCW are transferred to the Washington state patrol.  
19 All references to the director or the department of fisheries or  
20 department of wildlife in the Revised Code of Washington shall be  
21 construed to mean the chief of the state patrol or when referring to  
22 the functions transferred in this section.

23 NEW SECTION. **Sec. 8.** All reports, documents, surveys, books,  
24 records, files, papers, or written material in the possession of the  
25 departments of fisheries and wildlife pertaining to the powers,  
26 functions, and duties transferred shall be delivered to the custody of

1 the Washington state patrol. All cabinets, furniture, office equipment,  
2 motor vehicles, and other tangible property employed by the departments  
3 of fisheries and wildlife in carrying out the powers, functions, and  
4 duties transferred shall be made available to the Washington state  
5 patrol. All funds, credits, or other assets held in connection with  
6 the powers, functions, and duties transferred shall be assigned to the  
7 Washington state patrol.

8 Any appropriations made to the departments of fisheries and  
9 wildlife for carrying out the powers, functions, and duties transferred  
10 shall, on the effective date of this section, be transferred and  
11 credited to the Washington state patrol.

12 Whenever any question arises as to the transfer of any personnel,  
13 funds, books, documents, records, papers, files, equipment, or other  
14 tangible property used or held in the exercise of the powers and the  
15 performance of the duties and functions transferred, the director of  
16 financial management shall make a determination as to the proper  
17 allocation and certify the same to the state agencies concerned.

18 NEW SECTION. **Sec. 9.** All employees of the departments of  
19 fisheries and wildlife engaged in performing the powers, functions, and  
20 duties transferred are transferred to the jurisdiction of the  
21 Washington state patrol. All employees classified under chapter 41.06  
22 RCW, the state civil service law, are assigned to the Washington state  
23 patrol to perform their usual duties upon the same terms as formerly,  
24 without any loss of rights, subject to any action that may be  
25 appropriate thereafter in accordance with the laws and rules governing  
26 state civil service.

27 NEW SECTION. **Sec. 10.** All rules and all pending business  
28 before the departments of fisheries and wildlife pertaining to the

1 powers, functions, and duties transferred shall be continued and acted  
2 upon by the Washington state patrol. All existing contracts and  
3 obligations shall remain in full force and shall be performed by the  
4 Washington state patrol.

5 NEW SECTION. **Sec. 11.** The transfer of the powers, duties,  
6 functions, and personnel of the departments of fisheries and wildlife  
7 shall not affect the validity of any act performed prior to the  
8 effective date of this section.

9 NEW SECTION. **Sec. 12.** If apportionments of budgeted funds are  
10 required because of the transfers directed by sections 8 through 11 of  
11 this act, the director of financial management shall certify the  
12 apportionments to the agencies affected, the state auditor, and the  
13 state treasurer. Each of these shall make the appropriate transfer and  
14 adjustments in funds and appropriation accounts and equipment records  
15 in accordance with the certification.

16 NEW SECTION. **Sec. 13.** Nothing contained in sections 7 through  
17 12 of this act may be construed to alter any existing collective  
18 bargaining unit or the provisions of any existing collective bargaining  
19 agreement until the agreement has expired or until the bargaining unit  
20 has been modified by action of the personnel board as provided by law.

21 **Sec. 14.** RCW 4.24.350 and 1984 c 133 s 2 are each amended to read  
22 as follows:

23 (1) In any action for damages, whether based on tort or contract or  
24 otherwise, a claim or counterclaim for damages may be litigated in the  
25 principal action for malicious prosecution on the ground that the  
26 action was instituted with knowledge that the same was false, and

1 unfounded, malicious and without probable cause in the filing of such  
2 action, or that the same was filed as a part of a conspiracy to misuse  
3 judicial process by filing an action known to be false and unfounded.

4 (2) In any action, claim, or counterclaim brought by a judicial  
5 officer, prosecuting authority, or law enforcement officer for  
6 malicious prosecution arising out of the performance or purported  
7 performance of the public duty of such officer, an arrest or seizure of  
8 property need not be an element of the claim, nor do special damages  
9 need to be proved. A judicial officer, prosecuting authority, or law  
10 enforcement officer prevailing in such an action may be allowed an  
11 amount up to one thousand dollars as liquidated damages, together with  
12 a reasonable attorneys' fee, and other costs of suit. A government  
13 entity which has provided legal services to the prevailing judicial  
14 officer, prosecuting authority, or law enforcement officer has  
15 reimbursement rights to any award for reasonable attorneys' fees and  
16 other costs, but shall have no such rights to any liquidated damages  
17 allowed.

18 (3) No action may be brought against an attorney under this section  
19 solely because of that attorney's representation of a party in a  
20 lawsuit.

21 (4) As used in this section:

22 (a) "Judicial officer" means a justice, judge, magistrate, or other  
23 judicial officer of the state or a city, town, or county.

24 (b) "Prosecuting authority" means any officer or employee of the  
25 state or a city, town, or county who is authorized by law to initiate  
26 a criminal or civil proceeding on behalf of the public.

27 (c) "Law enforcement officer" means a member of the state patrol,  
28 a sheriff or deputy sheriff, or a member of the police force of a city,  
29 town, university, or state college(~~(, or a "wildlife agent" or "ex~~  
30 ~~officio wildlife agent" as defined in RCW 77.08.010)).~~

1       **Sec. 15.** RCW 10.93.020 and 1988 c 36 s 5 are each amended to read  
2 as follows:

3       As used in this chapter, the following terms have the meanings  
4 indicated unless the context clearly requires otherwise.

5       (1) "General authority Washington law enforcement agency" means any  
6 agency, department, or division of a municipal corporation, political  
7 subdivision, or other unit of local government of this state, and any  
8 agency, department, or division of state government, having as its  
9 primary function the detection and apprehension of persons committing  
10 infractions or violating the traffic or criminal laws in general, as  
11 distinguished from a limited authority Washington law enforcement  
12 agency, and any other unit of government expressly designated by  
13 statute as a general authority Washington law enforcement agency. The  
14 Washington state patrol is a general authority Washington law  
15 enforcement agency.

16       (2) "Limited authority Washington law enforcement agency" means any  
17 agency, political subdivision, or unit of local government of this  
18 state, and any agency, department, or division of state government,  
19 having as one of its functions the apprehension or detection of persons  
20 committing infractions or violating the traffic or criminal laws  
21 relating to limited subject areas, including but not limited to, the  
22 state departments of natural resources(~~(, fisheries, wildlife,)~~) and  
23 social and health services, the state gambling commission, the state  
24 lottery commission, the state parks and recreation commission, the  
25 state utilities and transportation commission, the state liquor control  
26 board, and the state department of corrections.

27       (3) "General authority Washington peace officer" means any full-  
28 time, fully compensated and elected, appointed, or employed officer of  
29 a general authority Washington law enforcement agency who is

1 commissioned to enforce the criminal laws of the state of Washington  
2 generally.

3 (4) "Limited authority Washington peace officer" means any full-  
4 time, fully compensated officer of a limited authority Washington law  
5 enforcement agency empowered by that agency to detect or apprehend  
6 violators of the laws in some or all of the limited subject areas for  
7 which that agency is responsible. A limited authority Washington peace  
8 officer may be a specially commissioned Washington peace officer if  
9 otherwise qualified for such status under this chapter.

10 (5) "Specially commissioned Washington peace officer", for the  
11 purposes of this chapter, means any officer, whether part-time or full-  
12 time, compensated or not, commissioned by a general authority  
13 Washington law enforcement agency to enforce some or all of the  
14 criminal laws of the state of Washington, who does not qualify under  
15 this chapter as a general authority Washington peace officer for that  
16 commissioning agency, specifically including reserve peace officers,  
17 and specially commissioned full-time, fully compensated peace officers  
18 duly commissioned by the states of Oregon or Idaho or any such peace  
19 officer commissioned by a unit of local government of Oregon or Idaho.  
20 A reserve peace officer is an individual who is an officer of a  
21 Washington law enforcement agency who does not serve such agency on a  
22 full-time basis but who, when called by the agency into active service,  
23 is fully commissioned on the same basis as full-time peace officers to  
24 enforce the criminal laws of the state.

25 (6) "Federal peace officer" means any employee or agent of the  
26 United States government who has the authority to carry firearms and  
27 make warrantless arrests and whose duties involve the enforcement of  
28 criminal laws of the United States.

29 (7) "Agency with primary territorial jurisdiction" means a city or  
30 town police agency which has responsibility for police activity within



1 its boundaries; or a county police or sheriff's department which has  
2 responsibility with regard to police activity in the unincorporated  
3 areas within the county boundaries; or a statutorily authorized port  
4 district police agency or four-year state college or university police  
5 agency which has responsibility for police activity within the  
6 statutorily authorized enforcement boundaries of the port district,  
7 state college, or university.

8 (8) "Primary commissioning agency" means (a) the employing agency  
9 in the case of a general authority Washington peace officer, a limited  
10 authority Washington peace officer, an Indian tribal peace officer, or  
11 a federal peace officer, and (b) the commissioning agency in the case  
12 of a specially commissioned Washington peace officer (i) who is  
13 performing functions within the course and scope of the special  
14 commission and (ii) who is not also a general authority Washington  
15 peace officer, a limited authority Washington peace officer, an Indian  
16 tribal peace officer, or a federal peace officer.

17 (9) "Primary function of an agency" means that function to which  
18 greater than fifty percent of the agency's resources are allocated.

19 (10) "Mutual law enforcement assistance" includes, but is not  
20 limited to, one or more law enforcement agencies aiding or assisting  
21 one or more other such agencies through loans or exchanges of personnel  
22 or of material resources, for law enforcement purposes.

23 **Sec. 16.** RCW 46.09.200 and 1986 c 100 s 52 are each amended to  
24 read as follows:

25 The provisions of this chapter shall be enforced by all persons  
26 having the authority to enforce any of the laws of this state,  
27 including, without limitation, officers of the state patrol, county  
28 sheriffs and their deputies, all municipal law enforcement officers  
29 within their respective jurisdictions, (~~state wildlife agents and~~

1 ~~deputy wildlife agents,~~) state park rangers, (~~(state fisheries~~  
2 ~~patrolmen,~~) and those employees of the department of natural resources  
3 designated by the commissioner of public lands under RCW 43.30.310,  
4 76.04.035, and 76.04.045.

5 **Sec. 17.** RCW 46.10.200 and 1980 c 78 s 131 are each amended to  
6 read as follows:

7 The provisions of this chapter shall be enforced by all persons  
8 having the authority to enforce any of the laws of this state,  
9 including, without limitation, officers of the state patrol, county  
10 sheriffs and their deputies, all municipal law enforcement officers  
11 within their respective jurisdictions, (~~(wildlife agents,~~) state park  
12 rangers, (~~(state fisheries patrol officers,~~) and those employees of  
13 the department of natural resources designated by the commissioner of  
14 public lands under RCW 43.30.310, as having police powers to enforce  
15 the laws of this state.

16 **Sec. 18.** RCW 69.30.110 and 1985 c 51 s 4 are each amended to read  
17 as follows:

18 It is unlawful to possess a commercial quantity of shellfish or to  
19 sell or offer to sell for human consumption shellfish in the state  
20 which have not been grown, shucked, packed, or shipped in accordance  
21 with the provisions of this chapter. Failure of a shellfish grower to  
22 display immediately a certificate of approval issued under RCW  
23 69.30.050 to an authorized representative of the department(~~(, a~~  
24 ~~fisheries patrol officer, or an ex officio fisheries)) or a Washington  
25 state patrol officer subjects the grower to the penalty provisions of  
26 this chapter, as well as immediate seizure of the shellfish by the  
27 representative or officer.~~

1 Failure of a shellfish processor to display a certificate of  
2 approval issued under RCW 69.30.060 to an authorized representative of  
3 the department(~~(, a fisheries patrol officer, or an ex officio~~  
4 ~~fisheries)) or a Washington state patrol officer subjects the processor  
5 to the penalty provisions of this chapter, as well as immediate seizure  
6 of the shellfish by the representative or officer.~~

7 Shellfish seized under this section shall be subject to prompt  
8 disposal by the representative or officer and may not be used for human  
9 consumption. The state board of health shall develop by rule  
10 procedures for the disposal of the seized shellfish.

11 **Sec. 19.** RCW 69.30.120 and 1985 c 51 s 5 are each amended to read  
12 as follows:

13 The department may enter and inspect any shellfish growing area or  
14 establishment for the purposes of determining compliance with this  
15 chapter. The department may inspect all certificates of approval and  
16 all shellfish, and take for inspection such samples of shellfish as may  
17 reasonably be necessary to carry out the provisions of this chapter.  
18 For purposes of this chapter, (~~(fisheries patrol officers or ex officio~~  
19 ~~fisheries)) Washington state patrol officers are limited to entry,  
20 inspection, and destruction of shellfish to achieve compliance with RCW  
21 69.30.110 and to taking for inspection samples of shellfish as may  
22 reasonably be necessary to carry out this chapter.~~

23 **Sec. 20.** RCW 70.93.050 and 1980 c 78 s 132 are each amended to  
24 read as follows:

25 The (~~(director shall designate trained employees of the department~~  
26 ~~to be vested with police powers to)) chief of the Washington state  
27 patrol shall enforce and administer the provisions of this chapter and  
28 all rules (~~(and regulations))~~ adopted (~~(thereunder))~~ under this~~

1 chapter. The ((director)) chief of the Washington state patrol shall  
2 also have authority to contract with other state and local governmental  
3 agencies having law enforcement capabilities for services and personnel  
4 reasonably necessary to carry out the enforcement provisions of this  
5 chapter. ((In addition, state patrol officers, wildlife agents, fire  
6 wardens, deputy fire wardens and forest rangers, sheriffs and marshals  
7 and their deputies, and police officers, and those employees of the  
8 department of ecology and the parks and recreation commission vested  
9 with police powers all shall enforce the provisions of this chapter and  
10 all rules and regulations adopted thereunder and are hereby empowered  
11 to issue citations to and/or arrest without warrant, persons violating  
12 any provision of this chapter or any of the rules and regulations  
13 adopted hereunder. All of the foregoing enforcement officers may serve  
14 and execute all warrants, citations, and other process issued by the  
15 courts in enforcing the provisions of this chapter and rules and  
16 regulations adopted hereunder. In addition, mailing by registered mail  
17 of such warrant, citation, or other process to his last known place of  
18 residence shall be deemed as personal service upon the person  
19 charged.))

20 **Sec. 21.** RCW 75.08.011 and 1990 c 63 s 6 and 1990 c 35 s 3 are  
21 each reenacted and amended to read as follows:

22 As used in this title or rules of the director, unless the context  
23 clearly requires otherwise:

24 (1) "Director" means the director of fisheries.

25 (2) "Department" means the department of fisheries.

26 (3) "Person" means an individual or a public or private entity or  
27 organization. The term "person" includes local, state, and federal  
28 government agencies, and all business organizations.

1       (4) (~~("Fisheries patrol officer" means a person appointed and~~  
2 ~~commissioned by the director, with authority to enforce this title,~~  
3 ~~rules of the director, and other statutes as prescribed by the~~  
4 ~~legislature. Fisheries patrol officers are peace officers.~~

5       (5) ~~"Ex officio fisheries patrol officer" means a commissioned~~  
6 ~~officer of a municipal, county, state, or federal agency having as its~~  
7 ~~primary function the enforcement of criminal laws in general, while the~~  
8 ~~officer is in the appropriate jurisdiction. The term "ex officio~~  
9 ~~fisheries patrol officer" also includes wildlife agents, special agents~~  
10 ~~of the national marine fisheries service, United States fish and~~  
11 ~~wildlife special agents, state parks commissioned officers, department~~  
12 ~~of natural resources enforcement officers, and United States forest~~  
13 ~~service officers, while the agents and officers are within their~~  
14 ~~respective jurisdictions.~~

15       (6)) "To fish" and "to take" and their derivatives mean an effort  
16 to kill, injure, harass, or catch food fish or shellfish.

17       ((7)) (5) "State waters" means all marine waters and fresh waters  
18 within ordinary high water lines and within the territorial boundaries  
19 of the state.

20       ((8)) (6) "Offshore waters" means marine waters of the Pacific  
21 Ocean outside the territorial boundaries of the state, including the  
22 marine waters of other states and countries.

23       ((9)) (7) "Concurrent waters of the Columbia river" means those  
24 waters of the Columbia river that coincide with the Washington-Oregon  
25 state boundary.

26       ((10)) (8) "Resident" means a person who has for the preceding  
27 ninety days maintained a permanent abode within the state, has  
28 established by formal evidence an intent to continue residing within  
29 the state, and is not licensed to fish as a resident in another state.

1       (~~(11)~~) (9) "Nonresident" means a person who has not fulfilled the  
2 qualifications of a resident.

3       (~~(12)~~) (10) "Food fish" means those species of the classes  
4 Osteichthyes, Agnatha, and Chondrichthyes that shall not be fished for  
5 except as authorized by rule of the director. The term "food fish"  
6 includes all stages of development and the bodily parts of food fish  
7 species.

8       (~~(13)~~) (11) "Shellfish" means those species of marine and  
9 freshwater invertebrates that shall not be taken except as authorized  
10 by rule of the director. The term "shellfish" includes all stages of  
11 development and the bodily parts of shellfish species.

12       (~~(14)~~) (12) "Salmon" means all species of the genus *Oncorhynchus*,  
13 except those classified as game fish in Title 77 RCW, and includes:

14	Scientific Name	Common Name
15	<i>Oncorhynchus tshawytscha</i>	Chinook salmon
16	<i>Oncorhynchus kisutch</i>	Coho salmon
17	<i>Oncorhynchus keta</i>	Chum salmon
18	<i>Oncorhynchus gorbuscha</i>	Pink salmon
19	<i>Oncorhynchus nerka</i>	Sockeye salmon

20       (~~(15)~~) (13) "Commercial" means related to or connected with  
21 buying, selling, or bartering. Fishing for food fish or shellfish with  
22 gear unlawful for fishing for personal use, or possessing food fish or  
23 shellfish in excess of the limits permitted for personal use are  
24 commercial activities.

25       (~~(16)~~) (14) "To process" and its derivatives mean preparing or  
26 preserving food fish or shellfish.

1       (~~(17)~~) (15) "Personal use" means for the private use of the  
2 individual taking the food fish or shellfish and not for sale or  
3 barter.

4       (~~(18)~~) (16) "Angling gear" means a line attached to a rod and  
5 reel capable of being held in hand while landing the fish or a hand-  
6 held line operated without rod or reel to which are attached no more  
7 than two single hooks or one artificial bait with no more than (~~four~~)  
8 two multiple hooks.

9       (~~(19)~~) (17) "Open season" means those times, manners of taking,  
10 and places or waters established by rule of the director for the lawful  
11 fishing, taking, or possession of food fish or shellfish. "Open  
12 season" includes the first and last days of the established time.

13       (~~(20)~~) (18) "Emerging commercial fishery" means any commercial  
14 fishery:

15       (a) For food fish or shellfish so designated by rule of the  
16 director, except that no species harvested under a license limitation  
17 program contained in chapter 75.30 RCW may be designated as a species  
18 in an emerging commercial fishery.

19       (b) Which will include, subject to the limitation in (a) of this  
20 subsection, all species harvested for commercial purposes as of June 7,  
21 1990, and the future commercial harvest of all other species in the  
22 waters of the state of Washington.

23       (~~(21)~~) (19) "Experimental fishery permit" means a permit issued  
24 by the director to allow the recipient to engage in an emerging  
25 commercial fishery.

26       **Sec. 22.** RCW 75.08.160 and 1983 1st ex.s. c 46 s 19 are each  
27 amended to read as follows:

28       The director, (~~(fisheries patrol officers, ex officio fisheries~~  
29 ~~patrol officers, and)) department employees, and Washington state~~

1 patrol officers may enter upon any land or waters and remain there  
2 while performing their duties without liability for trespass.

3 It is lawful for aircraft operated by the department or by the  
4 Washington state patrol to land and take off from the beaches or waters  
5 of the state. It is unlawful for a person to interfere with the  
6 operation of these aircraft.

7 **Sec. 23.** RCW 75.10.020 and 1983 1st ex.s. c 46 s 33 are each  
8 amended to read as follows:

9 (1) (~~(Fisheries)~~) Washington state patrol officers may inspect and  
10 search without warrant a person, boat, fishing equipment, vehicle,  
11 conveyance, container, or property used in catching, processing,  
12 storing, or marketing food fish or shellfish which they have reason to  
13 believe contain evidence of violations of this title or rules of the  
14 director. This authority does not extend to quarters in a boat,  
15 building, or other property used exclusively as a private domicile.

16 (2) (~~(Fisheries patrol officers and ex officio fisheries)~~)  
17 Washington state patrol officers may arrest without warrant a person  
18 they have reason to believe is in violation of this title or rules of  
19 the director.

20 **Sec. 24.** RCW 75.10.030 and 1990 c 144 s 5 are each amended to read  
21 as follows:

22 (1) (~~(Fisheries patrol officers and ex officio fisheries)~~)  
23 Washington state patrol officers may seize without warrant food fish or  
24 shellfish they have reason to believe have been taken, killed,  
25 transported, or possessed in violation of this title or rule of the  
26 director and may seize without warrant boats, vehicles, gear,  
27 appliances, or other articles they have reason to believe (~~(is {are})~~)  
28 are held with intent to violate or (~~(has {have})~~) have been used in



1 violation of this title or rule of the director. The articles seized  
2 shall be subject to forfeiture to the state, regardless of ownership.  
3 Articles seized may be recovered by their owner by depositing into  
4 court a cash bond equal to the value of the seized articles but not  
5 more than twenty-five thousand dollars. The cash bond is subject to  
6 forfeiture to the state in lieu of the seized article.

7 (2)(a) In the event of a seizure of an article under subsection (1)  
8 of this section, proceedings for forfeiture shall be deemed commenced  
9 by the seizure. Within fifteen days following the seizure, the seizing  
10 authority shall serve notice on the owner of the property seized and on  
11 any person having any known right or interest in the property seized.  
12 Notice may be served by any method authorized by law or court rule,  
13 including service by certified mail with return receipt requested.  
14 Service by mail shall be deemed complete upon mailing within the  
15 fifteen-day period following the seizure.

16 (b) If no person notifies the department in writing of the person's  
17 claim of ownership or right to possession of the articles seized under  
18 subsection (1) of this section within forty-five days of the seizure,  
19 the articles shall be deemed forfeited.

20 (c) If any person notifies the department in writing within forty-  
21 five days of the seizure, the person shall be afforded an opportunity  
22 to be heard as to the claim or right. The hearing shall be before the  
23 director or the director's designee, or before an administrative law  
24 judge appointed under chapter 34.12 RCW, except that a person asserting  
25 a claim or right may remove the matter to a court of competent  
26 jurisdiction if the aggregate value of the articles seized is more than  
27 five thousand dollars. The department hearing and any subsequent  
28 appeal shall be as provided for in Title 34 RCW. The burden of  
29 producing evidence shall be upon the person claiming to be the lawful  
30 owner or person claiming lawful right of possession of the articles

1 seized. The department shall promptly return the seized articles to  
2 the claimant upon a determination by the director or the director's  
3 designee, an administrative law judge, or a court that the claimant is  
4 the present lawful owner or is lawfully entitled to possession of the  
5 articles seized, and that the seized articles were improperly seized.

6 (d)(i) No conveyance, including vessels, vehicles, or aircraft, is  
7 subject to forfeiture under this section by reason of any act or  
8 omission established by the owner of the conveyance to have been  
9 committed or omitted without the owner's knowledge or consent.

10 (ii) A forfeiture of a conveyance encumbered by a perfected  
11 security interest is subject to the interest of the secured party if  
12 the secured party neither had knowledge nor consented to the act or  
13 omission.

14 (e) When seized property is forfeited under this section the  
15 department may retain it for official use unless the property is  
16 required to be destroyed, or upon application by any law enforcement  
17 agency of the state, release such property to the agency for the use of  
18 enforcing this title, or sell such property, and deposit the proceeds  
19 to the state general fund, as provided for in RCW 75.08.230.

20 **Sec. 25.** RCW 75.10.040 and 1983 1st ex.s. c 46 s 35 are each  
21 amended to read as follows:

22 (1) (~~((Fisheries patrol officers and ex officio fisheries))~~)  
23 Washington state patrol officers may serve and execute warrants and  
24 processes issued by the courts to enforce this title and rules of the  
25 director.

26 (2) To enforce this title or rules of the director, ((fisheries))  
27 Washington state patrol officers may call to their aid any equipment,  
28 boat, vehicle, or airplane(~~(, or ex officio fisheries patrol officer)~~).

1 (3) It is unlawful to knowingly or willfully resist or obstruct a  
2 ((fisheries)) Washington state patrol officer in the discharge of the  
3 officer's duties.

4 **Sec. 26.** RCW 75.10.160 and 1989 c 393 s 16 are each amended to  
5 read as follows:

6 ((Fisheries)) Washington state patrol officers are authorized to  
7 enforce all provisions of chapter 88.02 RCW and any rules adopted  
8 thereunder, and the provisions of RCW 43.51.400 and any rules adopted  
9 thereunder.

10 **Sec. 27.** RCW 75.25.140 and 1989 c 305 s 12 are each amended to  
11 read as follows:

12 (1) Recreational licenses are not transferable. Upon request of a  
13 ((fisheries patrol officer, ex officio fisheries)) Washington state  
14 patrol officer, or authorized fisheries employee, a person digging for  
15 or possessing razor clams or fishing for or possessing Hood Canal  
16 shrimp or food fish for personal use shall exhibit the required  
17 recreational license and write his or her signature for comparison with  
18 the signature on the license. Failure to comply with the request is  
19 prima facie evidence that the person does not have a license or is not  
20 the person named on the license.

21 (2) The razor clam license shall be visible on the licensee while  
22 digging for razor clams.

23 **Sec. 28.** RCW 75.25.170 and 1989 c 305 s 16 are each amended to  
24 read as follows:

25 Fees received for recreational licenses required under this chapter  
26 shall be deposited in the general fund and shall be appropriated for  
27 (1) management, enhancement, and research(~~(, and enforcement)~~) purposes

1 of the shellfish, salmon, and marine fish programs of the department of  
2 fisheries and (2) enforcement purposes of the Washington state patrol  
3 regarding department of fisheries programs.

4 **Sec. 29.** RCW 76.04.045 and 1986 c 100 s 5 are each amended to read  
5 as follows:

6 (1) All Washington state patrol officers, (~~wildlife agents,~~  
7 ~~fisheries patrol officers,~~) deputy state fire marshals, and state park  
8 rangers, while in their respective jurisdictions, shall be ex officio  
9 rangers.

10 (2) Employees of the United States forest service, when recommended  
11 by their forest supervisor, and citizens of the state advantageously  
12 located may, at the discretion of the department, be commissioned as  
13 rangers and vested with the certain powers and duties of wardens as  
14 specified in this chapter and as directed by the department.

15 (3) Rangers shall receive no compensation for their services except  
16 when employed in cooperation with the state and under the provisions of  
17 this chapter and shall not create any indebtedness or incur any  
18 liability on behalf of the state: PROVIDED, That rangers actually  
19 engaged in extinguishing or preventing the spread of fire on forest  
20 land or elsewhere that may endanger forest land shall, when their  
21 accounts for such service have been approved by the department, be  
22 entitled to receive compensation for such services at a rate to be  
23 fixed by the department.

24 (4) The department may cancel the commission of any ranger or  
25 authority granted to any ex officio ranger who may be incompetent or  
26 unwilling to discharge properly the duties of the office.

27 **Sec. 30.** RCW 76.48.040 and 1988 c 36 s 49 are each amended to read  
28 as follows:

1 Agencies charged with the enforcement of this chapter shall  
2 include, but not be limited to, the Washington state patrol, county  
3 sheriffs and their deputies, county or municipal police forces,  
4 authorized personnel of the United States forest service, and  
5 authorized personnel of the department(~~(s)~~) of natural resources(~~(7~~  
6 ~~fisheries, and wildlife)~~). Primary enforcement responsibility lies in  
7 the county sheriffs and their deputies.

8 **Sec. 31.** RCW 77.08.010 and 1989 c 297 s 7 are each amended to read  
9 as follows:

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

12 (1) "Director" means the director of wildlife.

13 (2) "Department" means the department of wildlife.

14 (3) "Commission" means the state wildlife commission.

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

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

21 (6) ~~"Ex officio wildlife agent" means a commissioned officer of a~~  
22 ~~municipal, county, state, or federal agency having as its primary~~  
23 ~~function the enforcement of criminal laws in general, while the officer~~  
24 ~~is in the appropriate jurisdiction. The term "ex officio wildlife~~  
25 ~~agent" includes fisheries patrol officers, special agents of the~~  
26 ~~national marine fisheries commission, state parks commissioned~~  
27 ~~officers, United States fish and wildlife special agents, department of~~  
28 ~~natural resources enforcement officers, and United States forest~~

1 ~~service officers, while the agents and officers are within their~~  
2 ~~respective jurisdictions.~~

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

5 ~~((8))~~ (6) "To trap" and its derivatives means a method of hunting  
6 using devices to capture wild animals or wild birds.

7 ~~((9))~~ (7) "To fish" and its derivatives means an effort to kill,  
8 injure, harass, or catch a game fish.

9 ~~((10))~~ (8) "Open season" means those times, manners of taking,  
10 and places or waters established by rule of the commission for the  
11 lawful hunting, fishing, or possession of game animals, game birds, or  
12 game fish. "Open season" includes the first and last days of the  
13 established time.

14 ~~((11))~~ (9) "Closed season" means all times, manners of taking,  
15 and places or waters other than those established as an open season.

16 ~~((12))~~ (10) "Closed area" means a place where the hunting of some  
17 species of wild animals or wild birds is prohibited.

18 ~~((13))~~ (11) "Closed waters" means all or part of a lake, river,  
19 stream, or other body of water, where fishing for game fish is  
20 prohibited.

21 ~~((14))~~ (12) "Game reserve" means a closed area where hunting for  
22 all wild animals and wild birds is prohibited.

23 ~~((15))~~ (13) "Bag limit" means the maximum number of game animals,  
24 game birds, or game fish which may be taken, caught, killed, or  
25 possessed by a person, as specified by rule of the commission for a  
26 particular period of time, or as to size, sex, or species.

27 ~~((16))~~ (14) "Wildlife" means all species of the animal kingdom  
28 whose members exist in Washington in a wild state. This includes but  
29 is not limited to mammals, birds, reptiles, amphibians, fish, and  
30 invertebrates. The term "wildlife" does not include feral domestic

1 mammals, the family Muridae of the order Rodentia (old world rats and  
2 mice), or those fish, shellfish, and marine invertebrates classified by  
3 the director of fisheries. The term "wildlife" includes all stages of  
4 development and the bodily parts of wildlife members.

5 ~~((17))~~ (15) "Wild animals" means those species of the class  
6 Mammalia whose members exist in Washington in a wild state and the  
7 species Rana catesbeiana (bullfrog). The term "wild animal" does not  
8 include feral domestic mammals or the family Muridae of the order  
9 Rodentia (old world rats and mice).

10 ~~((18))~~ (16) "Wild birds" means those species of the class Aves  
11 whose members exist in Washington in a wild state.

12 ~~((19))~~ (17) "Protected wildlife" means wildlife designated by the  
13 commission that shall not be hunted or fished.

14 ~~((20))~~ (18) "Endangered species" means wildlife designated by the  
15 commission as seriously threatened with extinction.

16 ~~((21))~~ (19) "Game animals" means wild animals that shall not be  
17 hunted except as authorized by the commission.

18 ~~((22))~~ (20) "Fur-bearing animals" means game animals that shall  
19 not be trapped except as authorized by the commission.

20 ~~((23))~~ (21) "Game birds" means wild birds that shall not be  
21 hunted except as authorized by the commission.

22 ~~((24))~~ (22) "Predatory birds" means wild birds that may be hunted  
23 throughout the year as authorized by the commission.

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

27 ~~((26))~~ (24) "Game farm" means property on which wildlife is held  
28 or raised for commercial purposes, trade, or gift. The term "game  
29 farm" does not include publicly owned facilities.

1       (~~(27)~~) (25) "Person of disability" means a permanently disabled  
2 person who is not ambulatory without the assistance of a wheelchair,  
3 crutches, or similar devices.

4       **Sec. 32.** RCW 77.12.055 and 1988 c 36 s 50 are each amended to read  
5 as follows:

6       (~~(1)~~) Jurisdiction and authority granted under RCW 77.12.060,  
7 77.12.070, and 77.12.080 to the (~~director, wildlife agents, and ex~~  
8 ~~officio wildlife agents~~) Washington state patrol is limited to the  
9 laws and rules adopted pursuant to this title pertaining to wildlife or  
10 to the management, operation, maintenance, or use of or conduct on real  
11 property used, owned, leased, or controlled by the department and other  
12 statutes as prescribed by the legislature. (~~However, when acting~~  
13 ~~within the scope of these duties and when an offense occurs in the~~  
14 ~~presence of the wildlife agent who is not an ex officio wildlife agent,~~  
15 ~~the wildlife agent may enforce all criminal laws of the state. The~~  
16 ~~wildlife agent must have successfully completed the basic law~~  
17 ~~enforcement academy course sponsored by the criminal justice training~~  
18 ~~commission, or a supplemental course in criminal law enforcement as~~  
19 ~~approved by the department and the criminal justice training commission~~  
20 ~~and provided by the department or the criminal justice training~~  
21 ~~commission, prior to enforcing the criminal laws of the state.~~

22       ~~(2) Wildlife agents are peace officers.~~

23       ~~(3) Any liability or claim of liability which arises out of the~~  
24 ~~exercise or alleged exercise of authority by a wildlife agent rests~~  
25 ~~with the department unless the wildlife agent acts under the direction~~  
26 ~~and control of another agency or unless the liability is otherwise~~  
27 ~~assumed under a written agreement between the department of wildlife~~  
28 ~~and another agency.~~



1       ~~(4) Wildlife agents may serve and execute warrants and processes~~  
2 ~~issued by the courts.))~~

3       **Sec. 33.** RCW 77.12.060 and 1987 c 506 s 17 are each amended to  
4 read as follows:

5       The ~~((director, wildlife agents, and ex officio wildlife agents))~~  
6 chief of the Washington state patrol and Washington state patrol  
7 officers may serve and execute warrants and process issued by the  
8 courts to enforce the law and rules adopted pursuant to this title.

9       To enforce these laws or rules, they may call to their aid any  
10 ~~((ex officio wildlife agent or))~~ citizen and that person shall render  
11 aid.

12       **Sec. 34.** RCW 77.12.620 and 1982 c 155 s 2 are each amended to read  
13 as follows:

14       The ~~((department))~~ chief of the Washington state patrol is  
15 authorized to require hunters and ~~((fishermen))~~ fishers occupying a  
16 motor vehicle approaching or entering a check station to stop and  
17 produce for inspection: (1) Any wildlife in their possession; (2)  
18 licenses, permits, tags, stamps, or punchcards required under Title 77  
19 RCW, or rules adopted thereunder. For these purposes, the department  
20 is authorized to operate check stations which shall be plainly marked  
21 by signs, operated by at least one ~~((uniformed wildlife agent))~~  
22 Washington state patrol officer, and operated in a safe manner.

23       **Sec. 35.** RCW 77.16.610 and 1982 c 155 s 3 are each amended to read  
24 as follows:

25       It is unlawful for any hunter or ~~((fisherman))~~ fisher approaching  
26 or entering a check station to fail to:

27       (1) Obey check station signs;

1 (2) Stop and report at a check station, when directed to do so by  
2 a uniformed wildlife agent; or

3 (3) Produce for inspection, when requested to do so by a ((wildlife  
4 agent)) Washington state patrol officer: (a) Wildlife; or (b)  
5 licenses, permits, tags, stamps, or punchcards required under Title 77  
6 RCW, or rules adopted thereunder.

7 **Sec. 36.** RCW 77.32.250 and 1981 c 310 s 29 are each amended to  
8 read as follows:

9 Licenses, permits, tags, stamps, and punchcards required by this  
10 chapter shall not be transferred and, unless otherwise provided in this  
11 chapter, are void on January 1st following the year in which the  
12 license, permit, tag, stamp, or punchcard was issued.

13 Upon request of a ((~~wildlife agent or ex officio wildlife agent~~))  
14 Washington state patrol officer, persons licensed, operating under a  
15 permit, or possessing wildlife under the authority of this chapter  
16 shall produce required licenses, permits, tags, stamps, or punchcards  
17 for inspection and write their signatures for comparison and in  
18 addition display their wildlife. Failure to comply with the request is  
19 prima facie evidence that the person has no license or is not the  
20 person named.

21 **Sec. 37.** RCW 77.32.380 and 1991 1st sp.s. c 7 s 12 are each  
22 amended to read as follows:

23 Persons sixteen years of age or older who use clearly identified  
24 department lands and access facilities are required to possess a  
25 conservation license or a hunting, fishing, trapping, or free license  
26 on their person while using the facilities. The fee for this license  
27 is ten dollars annually.

1 The spouse, all children under eighteen years of age, and guests  
2 under eighteen years of age of the holder of a valid conservation  
3 license may use department lands and access facilities when accompanied  
4 by the license holder.

5 Youth groups may use department lands and game access facilities  
6 without possessing a conservation license when accompanied by a license  
7 holder.

8 The conservation license is nontransferable and must be validated  
9 by the signature of the holder. Upon request of a (~~wildlife agent or~~  
10 ~~ex-officio wildlife agent~~) Washington state patrol officer a person  
11 using clearly identified department of wildlife lands shall exhibit the  
12 required license.

13 **Sec. 38.** RCW 91.14.100 and 1988 c 36 s 73 are each amended to read  
14 as follows:

15 (1) Every peace officer of this state and its political  
16 subdivisions has the authority to enforce this chapter. (~~Wildlife~~  
17 ~~agents of the department of wildlife and fisheries patrol officers of~~  
18 ~~the department of fisheries, through their directors,~~) The state  
19 patrol, through its chief, county sheriffs, and other local law  
20 enforcement bodies, shall assist in the enforcement. In the exercise  
21 of this responsibility, all such officers may stop any watercraft and  
22 direct it to a suitable pier or anchorage for boarding.

23 (2) A person, while operating a watercraft on any waters of this  
24 state, shall not knowingly flee or attempt to elude a law enforcement  
25 officer after having received a signal from the law enforcement officer  
26 to bring the boat to a stop.

27 (3) This chapter shall be construed to supplement federal laws and  
28 regulations. To the extent this chapter is inconsistent with federal  
29 laws and regulations, the federal laws and regulations shall control.

1        NEW SECTION.    **Sec. 39.**        The following acts or parts of acts are  
2 each repealed:

3        (1) RCW 75.08.206 and 1983 1st ex.s. c 46 s 20, 1971 ex.s. c 289 s  
4 73, & 1953 c 207 s 14;

5        (2) RCW 75.08.208 and 1983 1st ex.s. c 46 s 22 & 1957 c 216 s 1;  
6 and

7        (3) RCW 75.10.010 and 1985 c 155 s 1, 1983 1st ex.s. c 46 s 32,  
8 1980 c 78 s 133, & 1955 c 12 s 75.08.150.

9        NEW SECTION.    **Sec. 40.**        Sections 1, 2, 3, and 6 of this act are  
10 each added to chapter 43.43 RCW.

11       NEW SECTION.    **Sec. 41.**        This act shall take effect July 1, 1993.