

2 **E2SHB 1771** - S COMM AMD  
3 By Committee on Natural Resources

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5 Strike everything after the enacting clause and insert the  
6 following:

7 "NEW SECTION. **Sec. 1.** The legislature finds that salmonids and  
8 other fish are important to citizens of the state, and that numerous  
9 stocks of salmonids are declining in Washington. Certain regulatory  
10 protections exist for fish. One such protection is the statutory  
11 requirement that certain water diversions be screened. Another is that  
12 bypasses be constructed for fish passage. The legislature finds that  
13 such protective devices are being intentionally destroyed, damaged, or  
14 modified in ways that result in loss of fish, and that existing  
15 penalties are insufficient to prevent such damage. The legislature  
16 declares that measures must be taken to prevent destruction of screens  
17 in order to benefit the salmonid resources of the state.

18 NEW SECTION. **Sec. 2.** A new section is added to chapter 75.20 RCW  
19 to read as follows:

20 It is unlawful to intentionally destroy or damage fish guards,  
21 screens, or bypasses. It is also unlawful to unnecessarily modify such  
22 structures if the modification causes a substantial risk of death to  
23 fish. Unnecessary modification includes modification other than that  
24 necessary for maintenance and operation or research, provided such  
25 maintenance and operation or research is conducted in a manner to  
26 minimize risk of death to fish. The director may close a water  
27 diversion device if the director finds that the holder of the water  
28 right associated with the diversion has unlawfully destroyed, damaged,  
29 or modified, or caused to be unlawfully destroyed, damaged, or  
30 modified, a fish guard, screen, or bypass on the diversion and if such  
31 closure does not affect water availability for any other water user.  
32 Proceedings under this section shall be in accordance with chapter  
33 34.05 RCW. The water diversion device shall remain closed until the  
34 holder of the water right has repaired or replaced the fish guard,  
35 screen, or bypass to the satisfaction of the director. For the first

1 offense, the director may levy a civil penalty of a minimum of two  
2 thousand five hundred dollars and not to exceed five thousand dollars.  
3 For each subsequent offense, the director may levy a civil penalty of  
4 a minimum of two thousand five hundred dollars and not to exceed ten  
5 thousand dollars.

6 NEW SECTION. **Sec. 3.** A new section is added to chapter 75.20 RCW  
7 to read as follows:

8 If fish are lost due to violations of section 2 or 4 of this act,  
9 the violator shall reimburse the state for the value of the fish, as  
10 determined by the director. Reimbursement moneys shall be deposited  
11 into a special account in the custody of the state treasurer. The  
12 account shall be used by the department for live stocking of fish into  
13 waters of the state. Such fish shall be purchased from registered  
14 Washington state aquaculture farmers. The moneys in the account shall  
15 be spent for this purpose on a regular basis and shall not be allowed  
16 to accumulate. Any amount in the account above fifty thousand dollars  
17 shall be spent on catchable rainbow trout to stock waters of the state.  
18 The account is subject to allotment procedures under chapter 43.88 RCW  
19 but no appropriation is required for expenditures.

20 NEW SECTION. **Sec. 4.** A new section is added to chapter 75.20 RCW  
21 to read as follows:

22 Within thirty days upon notification by the director of  
23 noncompliance with RCW 75.20.040 or 75.20.060, a water right holder, or  
24 owner, manager, agent, lessee, or person in charge of a dam or  
25 obstruction shall either bring the structure into compliance or submit  
26 a written plan to the director for approval. The department shall make  
27 every effort to keep the plan requirements brief, clear, and simple.  
28 The plan shall briefly describe the means and schedule for compliance.  
29 The department may conduct inspections to monitor compliance with the  
30 plan. If the person fails to submit a plan, fails to bring the  
31 structure into compliance, or fails to implement the approved plan, the  
32 director may levy a civil penalty of a minimum of five hundred dollars  
33 and not to exceed five thousand dollars. For each subsequent offense,  
34 the director may levy a civil penalty of a minimum of two thousand five  
35 hundred dollars and not to exceed ten thousand dollars."

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3 On page 1, line 1 of the title, after "life;" strike the remainder  
4 of the title and insert "adding new sections to chapter 75.20 RCW;  
5 creating a new section; and prescribing penalties."

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