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**SUBSTITUTE HOUSE BILL 2055**

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**State of Washington**

**53rd Legislature**

**1993 Regular Session**

**By** House Committee on State Government (originally sponsored by Representatives Hansen, Fuhrman, King, Basich, R. Fisher, Sheldon, Ogden, Lemmon and Conway; by request of Governor Lowry)

Read first time 03/03/93.

1 AN ACT Relating to the creation of the department of fish and  
2 wildlife; amending RCW 41.06.070, 43.17.010, 43.17.020, 42.17.2401,  
3 43.51.955, 75.08.014, 75.08.035, 75.08.055, 75.08.400, 75.10.010,  
4 75.10.200, 75.12.040, 75.20.005, 75.20.050, 75.20.100, 75.20.1001,  
5 75.20.103, 75.20.104, 75.20.1041, 75.20.106, 75.20.110, 75.20.130,  
6 75.20.300, 75.20.310, 75.24.065, 75.25.005, 75.25.080, 75.25.170,  
7 75.25.180, 75.50.010, 75.50.070, 75.50.080, 75.50.130, 75.52.010,  
8 75.52.020, 75.52.035, 75.52.100, 75.52.110, 75.52.160, 75.58.010,  
9 75.58.020, 75.58.030, 75.58.040, 77.04.020, 77.04.100, 77.12.055,  
10 77.12.103, 77.12.440, 77.12.710, 77.12.730, 77.12.750, 77.16.060,  
11 77.16.135, 77.16.170, 77.18.010, and 77.32.380; reenacting and amending  
12 RCW 75.08.011; adding a new chapter to Title 43 RCW; creating new  
13 sections; and providing an effective date.

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

15 NEW SECTION. **Sec. 1.** Perpetuation of fish and wildlife in  
16 Washington requires clear, efficient, streamlined, scientific,  
17 management from a single state fish and wildlife agency. Consolidating  
18 the existing departments of fisheries and of wildlife into that one  
19 unified agency will save money. Such a consolidation will focus

1 existing funds for the greatest protection of species and stocks. It  
2 will bring combined resources to bear on securing, managing, and  
3 enhancing habitats. It will simplify licensing, amplify research,  
4 increase field staff, and magnify enforcement of laws and rules. It  
5 will provide all fishers, hunters, and observers of fish and wildlife  
6 with a single source of consistent policies, procedures, and access.

7 NEW SECTION. **Sec. 2.** There is hereby created a department of  
8 state government to be known as the department of fish and wildlife.  
9 The department shall be vested with all powers and duties transferred  
10 to it under this chapter and such other powers and duties as may be  
11 authorized by law. All powers, duties, and functions of the department  
12 of fisheries and the department of wildlife are transferred to the  
13 department of fish and wildlife. All references in the Revised Code of  
14 Washington to the director or the department of fisheries or the  
15 director or department of wildlife shall be construed to mean the  
16 director or department of fish and wildlife.

17 NEW SECTION. **Sec. 3.** As used in this chapter, unless the context  
18 indicates otherwise:

- 19 (1) "Department" means the department of fish and wildlife; and  
20 (2) "Director" means the director of fish and wildlife.

21 NEW SECTION. **Sec. 4.** The executive head and appointing authority  
22 of the department shall be the director. The director shall be  
23 appointed by the governor, with the consent of the senate, and shall  
24 serve at the pleasure of the governor. The director shall be paid a  
25 salary to be fixed by the governor in accordance with RCW 43.03.040.

26 NEW SECTION. **Sec. 5.** In addition to other powers and duties  
27 granted or transferred to the director, the director shall have the  
28 following powers and duties:

- 29 (1) Supervise and administer the department in accordance with law;  
30 (2) Appoint personnel and prescribe their duties. Except as  
31 otherwise provided, personnel of the department are subject to chapter  
32 41.06 RCW, the state civil service law;  
33 (3) Enter into contracts on behalf of the agency;  
34 (4) Adopt rules in accordance with chapter 34.05 RCW, the  
35 administrative procedure act;

1 (5) Delegate powers, duties, and functions as the director deems  
2 necessary for efficient administration but the director shall be  
3 responsible for the official acts of the officers and employees of the  
4 department;

5 (6) Appoint advisory committees and undertake studies, research,  
6 and analysis necessary to support the activities of the department;

7 (7) Accept and expend grants, gifts, or other funds to further the  
8 purposes of the department; and

9 (8) Perform other duties as are necessary and consistent with law.

10 NEW SECTION. **Sec. 6.** It is the intent of the legislature wherever  
11 possible to place the internal affairs of the department under the  
12 control of the director in order that the director may institute  
13 therein the flexible, alert, and intelligent management of its business  
14 that changing contemporary circumstances require. Therefore, whenever  
15 the director's authority is not specifically limited by law, the  
16 director shall have complete charge and supervisory powers over the  
17 department. The director may create such administrative structures as  
18 the director considers appropriate, except as otherwise specified by  
19 law.

20 NEW SECTION. **Sec. 7.** The director shall appoint such deputy  
21 directors, assistant directors, and up to seven special assistants as  
22 may be needed to administer the department. These employees are exempt  
23 from the provisions of chapter 41.06 RCW.

24 NEW SECTION. **Sec. 8.** The department of fish and wildlife shall  
25 develop a strategic plan that outlines the mission or missions of the  
26 department and establishes measurable goals for achieving desired  
27 results or outcomes for its customers. The department shall involve  
28 affected stakeholders in planning its missions and goals.

29 NEW SECTION. **Sec. 9.** The director of fisheries and the director  
30 of wildlife shall, by November 15, 1993, jointly submit a plan to the  
31 governor for the consolidation and smooth transition of the department  
32 of fisheries and the department of wildlife into the department of fish  
33 and wildlife so that the department of fish and wildlife will operate  
34 as a single entity on July 1, 1994.

1        NEW SECTION.    **Sec. 10.**    The department of fisheries and the  
2 department of wildlife are abolished and their powers, duties, and  
3 functions are transferred to the department of fish and wildlife.

4        NEW SECTION.    **Sec. 11.**    All reports, documents, surveys, books,  
5 records, files, papers, or written material connected with the powers,  
6 duties, and functions transferred in this act shall be delivered to the  
7 custody of the department of fish and wildlife.    All cabinets,  
8 furniture, office equipment, motor vehicles, and other tangible  
9 property employed in connection with the powers, duties, and functions  
10 transferred shall be made available to the department of fish and  
11 wildlife.    All funds, credits, or other assets held in connection with  
12 the powers, duties, and functions transferred shall be assigned to the  
13 department of fish and wildlife.

14        Any appropriations made in connection with the powers, duties, and  
15 functions transferred shall, on the effective date of this section, be  
16 transferred and credited to the department of fish and wildlife.

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

24        NEW SECTION.    **Sec. 12.**    All classified employees employed in  
25 connection with the powers, duties, and functions transferred in this  
26 act are transferred to the jurisdiction of the department of fish and  
27 wildlife.    All employees classified under chapter 41.06 RCW, the state  
28 civil service law, are assigned to the department of fish and wildlife  
29 to perform their usual duties upon the same terms as formerly, without  
30 any loss of rights, subject to any action that may be appropriate  
31 thereafter in accordance with the laws and rules governing state civil  
32 service.

33        NEW SECTION.    **Sec. 13.**    All rules and all pending business before  
34 any agency of state government pertaining to the powers, duties, and  
35 functions transferred shall be continued and acted upon by the  
36 department of fish and wildlife.    All existing contracts, obligations,

1 and agreements shall remain in full force and shall be performed by the  
2 department of fish and wildlife.

3 NEW SECTION. **Sec. 14.** The transfer of the powers, duties,  
4 functions, and personnel shall not affect the validity of any act  
5 performed by any employee before the effective date of this section.

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

13 NEW SECTION. **Sec. 16.** Nothing contained in sections 11 through 15  
14 of this act may be construed to alter any existing collective  
15 bargaining unit or the provisions of any existing collective bargaining  
16 agreement until the agreement has expired or until the bargaining unit  
17 has been modified by action of the personnel board as provided by law.

18 **Sec. 17.** RCW 41.06.070 and 1990 c 60 s 101 are each amended to  
19 read as follows:

20 The provisions of this chapter do not apply to:

21 (1) The members of the legislature or to any employee of, or  
22 position in, the legislative branch of the state government including  
23 members, officers, and employees of the legislative council,  
24 legislative budget committee, statute law committee, and any interim  
25 committee of the legislature;

26 (2) The justices of the supreme court, judges of the court of  
27 appeals, judges of the superior courts or of the inferior courts, or to  
28 any employee of, or position in the judicial branch of state  
29 government;

30 (3) Officers, academic personnel, and employees of state  
31 institutions of higher education, the state board for community and  
32 technical colleges ((education)), and the higher education personnel  
33 board;

34 (4) The officers of the Washington state patrol;

35 (5) Elective officers of the state;

1 (6) The chief executive officer of each agency;

2 (7) In the departments of employment security, (~~(fisheries,~~)  
3 social and health services, the director and (~~(his)~~) the director's  
4 confidential secretary; in all other departments, the executive head of  
5 which is an individual appointed by the governor, the director, (~~(his)~~)  
6 the director's confidential secretary, and (~~(his)~~) the director's  
7 statutory assistant directors;

8 (8) In the case of a multimember board, commission, or committee,  
9 whether the members thereof are elected, appointed by the governor or  
10 other authority, serve ex officio, or are otherwise chosen:

11 (a) All members of such boards, commissions, or committees;

12 (b) If the members of the board, commission, or committee serve on  
13 a part-time basis and there is a statutory executive officer: (i) The  
14 secretary of the board, commission, or committee; (ii) the chief  
15 executive officer of the board, commission, or committee; and (iii) the  
16 confidential secretary of the chief executive officer of the board,  
17 commission, or committee;

18 (c) If the members of the board, commission, or committee serve on  
19 a full-time basis: (i) The chief executive officer or administrative  
20 officer as designated by the board, commission, or committee; and (ii)  
21 a confidential secretary to the chairman of the board, commission, or  
22 committee;

23 (d) If all members of the board, commission, or committee serve ex  
24 officio: (i) The chief executive officer; and (ii) the confidential  
25 secretary of such chief executive officer;

26 (9) The confidential secretaries and administrative assistants in  
27 the immediate offices of the elective officers of the state;

28 (10) Assistant attorneys general;

29 (11) Commissioned and enlisted personnel in the military service of  
30 the state;

31 (12) Inmate, student, part-time, or temporary employees, and part-  
32 time professional consultants, as defined by the state personnel board  
33 or the board having jurisdiction;

34 (13) The public printer or to any employees of or positions in the  
35 state printing plant;

36 (14) Officers and employees of the Washington state fruit  
37 commission;

38 (15) Officers and employees of the Washington state apple  
39 advertising commission;

1 (16) Officers and employees of the Washington state dairy products  
2 commission;

3 (17) Officers and employees of the Washington tree fruit research  
4 commission;

5 (18) Officers and employees of the Washington state beef  
6 commission;

7 (19) Officers and employees of any commission formed under the  
8 provisions of chapter 191, Laws of 1955, and chapter 15.66 RCW;

9 (20) Officers and employees of the state wheat commission formed  
10 under the provisions of chapter 87, Laws of 1961 (chapter 15.63 RCW);

11 (21) Officers and employees of agricultural commissions formed  
12 under the provisions of chapter 256, Laws of 1961 (chapter 15.65 RCW);

13 (22) Officers and employees of the nonprofit corporation formed  
14 under chapter 67.40 RCW;

15 (23) Liquor vendors appointed by the Washington state liquor  
16 control board pursuant to RCW 66.08.050: PROVIDED, HOWEVER, That rules  
17 and regulations adopted by the state personnel board pursuant to RCW  
18 41.06.150 regarding the basis for, and procedures to be followed for,  
19 the dismissal, suspension, or demotion of an employee, and appeals  
20 therefrom shall be fully applicable to liquor vendors except those part  
21 time agency vendors employed by the liquor control board when, in  
22 addition to the sale of liquor for the state, they sell goods, wares,  
23 merchandise, or services as a self-sustaining private retail business;

24 (24) Executive assistants for personnel administration and labor  
25 relations in all state agencies employing such executive assistants  
26 including but not limited to all departments, offices, commissions,  
27 committees, boards, or other bodies subject to the provisions of this  
28 chapter and this subsection shall prevail over any provision of law  
29 inconsistent herewith unless specific exception is made in such law;

30 (25) In each agency with fifty or more employees: Deputy agency  
31 heads, assistant directors or division directors, and not more than  
32 three principal policy assistants who report directly to the agency  
33 head or deputy agency heads;

34 (26) All employees of the marine employees' commission;

35 (27) Up to a total of five senior staff positions of the western  
36 library network under chapter 27.26 RCW responsible for formulating  
37 policy or for directing program management of a major administrative  
38 unit. This subsection shall expire on June 30, 1997;

1 (28) In addition to the exemptions specifically provided by this  
2 chapter, the state personnel board may provide for further exemptions  
3 pursuant to the following procedures. The governor or other  
4 appropriate elected official may submit requests for exemption to the  
5 personnel board stating the reasons for requesting such exemptions.  
6 The personnel board shall hold a public hearing, after proper notice,  
7 on requests submitted pursuant to this subsection. If the board  
8 determines that the position for which exemption is requested is one  
9 involving substantial responsibility for the formulation of basic  
10 agency or executive policy or one involving directing and controlling  
11 program operations of an agency or a major administrative division  
12 thereof, the personnel board shall grant the request and such  
13 determination shall be final. The total number of additional  
14 exemptions permitted under this subsection shall not exceed one hundred  
15 eighty-seven for those agencies not directly under the authority of any  
16 elected public official other than the governor, and shall not exceed  
17 a total of twenty-five for all agencies under the authority of elected  
18 public officials other than the governor. The state personnel board  
19 shall report to each regular session of the legislature during an odd-  
20 numbered year all exemptions granted under subsections (24), (25), and  
21 (28) of this section, together with the reasons for such exemptions.

22 The salary and fringe benefits of all positions presently or  
23 hereafter exempted except for the chief executive officer of each  
24 agency, full-time members of boards and commissions, administrative  
25 assistants and confidential secretaries in the immediate office of an  
26 elected state official, and the personnel listed in subsections (10)  
27 through (22) of this section, shall be determined by the state  
28 personnel board.

29 Any person holding a classified position subject to the provisions  
30 of this chapter shall, when and if such position is subsequently  
31 exempted from the application of this chapter, be afforded the  
32 following rights: If such person previously held permanent status in  
33 another classified position, such person shall have a right of  
34 reversion to the highest class of position previously held, or to a  
35 position of similar nature and salary.

36 Any classified employee having civil service status in a classified  
37 position who accepts an appointment in an exempt position shall have  
38 the right of reversion to the highest class of position previously  
39 held, or to a position of similar nature and salary.



1 A person occupying an exempt position who is terminated from the  
2 position for gross misconduct or malfeasance does not have the right of  
3 reversion to a classified position as provided for in this section.

4 **Sec. 18.** RCW 43.17.010 and 1989 1st ex.s. c 9 s 810 are each  
5 amended to read as follows:

6 There shall be departments of the state government which shall be  
7 known as (1) the department of social and health services, (2) the  
8 department of ecology, (3) the department of labor and industries, (4)  
9 the department of agriculture, (5) (~~the department of fisheries,~~)  
10 the department of fish and wildlife, (~~(+7)~~) (6) the department of  
11 transportation, (~~(+8)~~) (7) the department of licensing, (~~(+9)~~) (8)  
12 the department of general administration, (~~(+10)~~) (9) the department  
13 of trade and economic development, (~~(+11)~~) (10) the department of  
14 veterans affairs, (~~(+12)~~) (11) the department of revenue, (~~(+13)~~)  
15 (12) the department of retirement systems, (~~(+14)~~) (13) the department  
16 of corrections, (~~(+15)~~) (14) the department of community development,  
17 and (~~(+16)~~) (15) the department of health, which shall be charged with  
18 the execution, enforcement, and administration of such laws, and  
19 invested with such powers and required to perform such duties, as the  
20 legislature may provide.

21 **Sec. 19.** RCW 43.17.020 and 1989 1st ex.s. c 9 s 811 are each  
22 amended to read as follows:

23 There shall be a chief executive officer of each department to be  
24 known as: (1) The secretary of social and health services, (2) the  
25 director of ecology, (3) the director of labor and industries, (4) the  
26 director of agriculture, (5) (~~the director of fisheries,~~)  
27 the director of fish and wildlife, (~~(+7)~~) (6) the secretary of  
28 transportation, (~~(+8)~~) (7) the director of licensing, (~~(+9)~~) (8) the  
29 director of general administration, (~~(+10)~~) (9) the director of trade  
30 and economic development, (~~(+11)~~) (10) the director of veterans  
31 affairs, (~~(+12)~~) (11) the director of revenue, (~~(+13)~~) (12) the  
32 director of retirement systems, (~~(+14)~~) (13) the secretary of  
33 corrections, (~~(+15)~~) (14) the director of community development, and  
34 (~~(+16)~~) (15) the secretary of health.

35 Such officers, except the secretary of transportation, shall be  
36 appointed by the governor, with the consent of the senate, and hold  
37 office at the pleasure of the governor. (~~The director of wildlife,~~

1 ~~however, shall be appointed according to the provisions of RCW~~  
2 ~~77.04.080. If a vacancy occurs while the senate is not in session, the~~  
3 ~~governor shall make a temporary appointment until the next meeting of~~  
4 ~~the senate. A temporary director of wildlife shall not serve more than~~  
5 ~~one year.))~~ The secretary of transportation shall be appointed by the  
6 transportation commission as prescribed by RCW 47.01.041.

7 **Sec. 20.** RCW 42.17.2401 and 1991 c 200 s 404 are each amended to  
8 read as follows:

9 For the purposes of RCW 42.17.240, the term "executive state  
10 officer" includes:

11 (1) The chief administrative law judge, the director of  
12 agriculture, the administrator of the office of marine safety, the  
13 administrator of the Washington basic health plan, the director of the  
14 department of services for the blind, the director of the state system  
15 of community and technical colleges, the director of community  
16 development, the secretary of corrections, the director of ecology, the  
17 commissioner of employment security, the chairman of the energy  
18 facility site evaluation council, the director of the energy office,  
19 the secretary of the state finance committee, the director of financial  
20 management, the director of ((~~fisheries~~)) fish and wildlife, the  
21 executive secretary of the forest practices appeals board, the director  
22 of the gambling commission, the director of general administration, the  
23 secretary of health, the administrator of the Washington state health  
24 care authority, the executive secretary of the health care facilities  
25 authority, the executive secretary of the higher education facilities  
26 authority, the director of the higher education personnel board, the  
27 executive secretary of the horse racing commission, the executive  
28 secretary of the human rights commission, the executive secretary of  
29 the indeterminate sentence review board, the director of the department  
30 of information services, the director of the interagency committee for  
31 outdoor recreation, the executive director of the state investment  
32 board, the director of labor and industries, the director of licensing,  
33 the director of the lottery commission, the director of the office of  
34 minority and women's business enterprises, the director of parks and  
35 recreation, the director of personnel, the executive director of the  
36 public disclosure commission, the director of retirement systems, the  
37 director of revenue, the secretary of social and health services, the  
38 chief of the Washington state patrol, the executive secretary of the

1 board of tax appeals, the director of trade and economic development,  
2 the secretary of transportation, the secretary of the utilities and  
3 transportation commission, the director of veterans affairs, (~~the~~  
4 ~~director of wildlife,~~) the president of each of the regional and state  
5 universities and the president of The Evergreen State College, each  
6 district and each campus president of each state community college;

7 (2) Each professional staff member of the office of the governor;

8 (3) Each professional staff member of the legislature; and

9 (4) Central Washington University board of trustees, board of  
10 trustees of each community college, each member of the state board for  
11 community and technical colleges (~~education~~), state convention and  
12 trade center board of directors, committee for deferred compensation,  
13 Eastern Washington University board of trustees, Washington economic  
14 development finance authority, The Evergreen State College board of  
15 trustees, forest practices appeals board, forest practices board,  
16 gambling commission, Washington health care facilities authority,  
17 higher education coordinating board, higher education facilities  
18 authority, higher education personnel board, horse racing commission,  
19 state housing finance commission, human rights commission,  
20 indeterminate sentence review board, board of industrial insurance  
21 appeals, information services board, interagency committee for outdoor  
22 recreation, state investment board, liquor control board, lottery  
23 commission, marine oversight board, oil and gas conservation committee,  
24 Pacific Northwest electric power and conservation planning council,  
25 parks and recreation commission, personnel appeals board, personnel  
26 board, board of pilotage (~~commissioners~~) commissioners, pollution  
27 control hearings board, public disclosure commission, public pension  
28 commission, shorelines hearing board, state employees' benefits board,  
29 board of tax appeals, transportation commission, University of  
30 Washington board of regents, utilities and transportation commission,  
31 Washington state maritime commission, Washington public power supply  
32 system executive board, Washington State University board of regents,  
33 and Western Washington University board of trustees(~~, and wildlife~~  
34 ~~commission~~)).

35 **Sec. 21.** RCW 43.51.955 and 1987 c 506 s 93 are each amended to  
36 read as follows:

37 Nothing in RCW 43.51.946 through 43.51.956 shall be construed to  
38 interfere with the powers, duties, and authority of the state

1 department of fish and wildlife or the state wildlife commission to  
2 regulate, manage, conserve, and provide for the harvest of wildlife  
3 within such area: PROVIDED, HOWEVER, That no hunting shall be  
4 permitted in any state park.

5 **Sec. 22.** RCW 75.08.011 and 1990 c 63 s 6 and 1990 c 35 s 3 are  
6 each reenacted and amended to read as follows:

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

9 (1) "Director" means the director of (~~(fisheries)~~) fish and  
10 wildlife.

11 (2) "Department" means the department of (~~(fisheries)~~) fish and  
12 wildlife.

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

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

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

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

32 (7) "State waters" means all marine waters and fresh waters within  
33 ordinary high water lines and within the territorial boundaries of the  
34 state.

35 (8) "Offshore waters" means marine waters of the Pacific Ocean  
36 outside the territorial boundaries of the state, including the marine  
37 waters of other states and countries.

1 (9) "Concurrent waters of the Columbia river" means those waters of  
2 the Columbia river that coincide with the Washington-Oregon state  
3 boundary.

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

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

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

14 (13) "Shellfish" means those species of marine and freshwater  
15 invertebrates that shall not be taken except as authorized by rule of  
16 the director. The term "shellfish" includes all stages of development  
17 and the bodily parts of shellfish species.

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

20	Scientific Name	Common Name
21	<i>Oncorhynchus tshawytscha</i>	Chinook salmon
22	<i>Oncorhynchus kisutch</i>	Coho salmon
23	<i>Oncorhynchus keta</i>	Chum salmon
24	<i>Oncorhynchus gorbuscha</i>	Pink salmon
25	<i>Oncorhynchus nerka</i>	Sockeye salmon

26 (15) "Commercial" means related to or connected with buying,  
27 selling, or bartering. Fishing for food fish or shellfish with gear  
28 unlawful for fishing for personal use, or possessing food fish or  
29 shellfish in excess of the limits permitted for personal use are  
30 commercial activities.

31 (16) "To process" and its derivatives mean preparing or preserving  
32 food fish or shellfish.

33 (17) "Personal use" means for the private use of the individual  
34 taking the food fish or shellfish and not for sale or barter.

35 (18) "Angling gear" means a line attached to a rod and reel capable  
36 of being held in hand while landing the fish or a hand-held line  
37 operated without rod or reel to which are attached no more than two

1 single hooks or one artificial bait with no more than four multiple  
2 hooks.

3 (19) "Open season" means those times, manners of taking, and places  
4 or waters established by rule of the director for the lawful fishing,  
5 taking, or possession of food fish or shellfish. "Open season"  
6 includes the first and last days of the established time.

7 (20) "Emerging commercial fishery" means any commercial fishery:

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

12 (b) Which will include, subject to the limitation in (a) of this  
13 subsection, all species harvested for commercial purposes as of June 7,  
14 1990, and the future commercial harvest of all other species in the  
15 waters of the state of Washington.

16 (21) "Experimental fishery permit" means a permit issued by the  
17 director to allow the recipient to engage in an emerging commercial  
18 fishery.

19 **Sec. 23.** RCW 75.08.014 and 1983 1st ex.s. c 46 s 6 are each  
20 amended to read as follows:

21 The director (~~((of fisheries))~~) shall supervise the administration  
22 and operation of the department (~~((of fisheries))~~) and perform the duties  
23 prescribed by law. The director may appoint and employ necessary  
24 personnel. The director may delegate, in writing, to department  
25 personnel the duties and powers necessary for efficient operation and  
26 administration of the department.

27 Only persons having general knowledge of the fisheries and wildlife  
28 resources and of the commercial and recreational fishing industry in  
29 this state are eligible for appointment as director. The director  
30 shall not have a financial interest in the fishing industry or a  
31 directly related industry.

32 **Sec. 24.** RCW 75.08.035 and 1992 c 63 s 11 are each amended to read  
33 as follows:

34 (1) The department (~~((of fisheries))~~) shall have the following powers  
35 and duties in carrying out its responsibilities for the senior  
36 environmental corps created under RCW 43.63A.247:

37 Appoint a representative to the coordinating council;

1       Develop project proposals;  
2       Administer project activities within the agency;  
3       Develop appropriate procedures for the use of volunteers;  
4       Provide project orientation, technical training, safety training,  
5 equipment, and supplies to carry out project activities;  
6       Maintain project records and provide project reports;  
7       Apply for and accept grants or contributions for corps approved  
8 projects; and

9       With the approval of the council, enter into memoranda of  
10 understanding and cooperative agreements with federal, state, and local  
11 agencies to carry out corps approved projects.

12       (2) The department shall not use corps volunteers to displace  
13 currently employed workers.

14       **Sec. 25.** RCW 75.08.055 and 1987 c 506 s 94 are each amended to  
15 read as follows:

16       (1) The director(~~(, and the director of wildlife)~~) with the  
17 concurrence of the wildlife commission, may enter into agreements with  
18 and receive funds from the United States for the construction,  
19 maintenance, and operation of fish cultural stations, laboratories, and  
20 devices in the Columbia River basin for improvement of feeding and  
21 spawning conditions for fish, for the protection of migratory fish from  
22 irrigation projects and for facilitating free migration of fish over  
23 obstructions.

24       (2) The director and the wildlife commission may acquire by gift,  
25 purchase, lease, easement, or condemnation the use of lands where the  
26 construction or improvement is to be carried on by the United States.

27       **Sec. 26.** RCW 75.08.400 and 1989 c 336 s 1 are each amended to read  
28 as follows:

29       The legislature finds that:

30       (1) The fishery resources of Washington are critical to the social  
31 and economic needs of the citizens of the state;

32       (2) Salmon production is dependent on both wild and artificial  
33 production;

34       (3) The department (~~(of fisheries)~~) is directed to enhance  
35 Washington's salmon runs; and

36       (4) Full utilization of the state's salmon rearing facilities is  
37 necessary to enhance commercial and recreational fisheries.

1       **Sec. 27.** RCW 75.10.010 and 1985 c 155 s 1 are each amended to read  
2 as follows:

3       (1) Fisheries patrol officers and ex officio fisheries patrol  
4 officers within their respective jurisdictions, shall enforce this  
5 title, rules of the director, and other statutes as prescribed by the  
6 legislature.

7       (2) When acting within the scope of subsection (1) of this section  
8 and when an offense occurs in the presence of the fisheries patrol  
9 officer who is not an ex officio fisheries patrol officer, the  
10 fisheries patrol officer may enforce all criminal laws of the state.  
11 The fisheries patrol officer must have successfully completed the basic  
12 law enforcement academy course sponsored by the criminal justice  
13 training commission, or a supplemental course in criminal law  
14 enforcement as approved by the department and the criminal justice  
15 training commission and provided by the department or the criminal  
16 justice training commission, prior to enforcing the criminal laws of  
17 the state.

18       (3) Any liability or claim of liability which arises out of the  
19 exercise or alleged exercise of authority by a fisheries patrol officer  
20 rests with the department (~~(of fisheries)~~) unless the fisheries patrol  
21 officer acts under the direction and control of another agency or  
22 unless the liability is otherwise assumed under a written agreement  
23 between the department (~~(of fisheries)~~) and another agency.

24       (4) Fisheries patrol officers may serve and execute warrants and  
25 processes issued by the courts.

26       **Sec. 28.** RCW 75.10.200 and 1990 c 144 s 3 are each amended to read  
27 as follows:

28       Persons who violate this title or the rules of the director shall  
29 be subject to the following penalties:

30       (1) The following violations are gross misdemeanors and are  
31 punishable under RCW 9.92.020:

32       (a) Violating RCW 75.20.100; and

33       (b) Violating department statutes that require fish screens, fish  
34 ladders, and other protective devices for fish.

35       (2) The following violations are a class C felony and are  
36 punishable under RCW 9A.20.021(1)(c):

37       (a) Discharging explosives in waters that contain adult salmon or  
38 sturgeon: PROVIDED, That lawful discharge of devices for the purpose



1 of frightening or killing marine mammals or for the lawful removal of  
2 snags or for actions approved under RCW 75.20.100 or 75.12.070(2) are  
3 exempt from this subsection; and

4 (b) To knowingly purchase food fish or shellfish with a wholesale  
5 value greater than two hundred fifty dollars that were taken by methods  
6 or during times not authorized by department (~~(of fisheries)~~) rules, or  
7 were taken by someone who does not have a valid commercial fishing  
8 license, a valid fish buyer's license, or a valid wholesale dealer's  
9 license, or were taken with fishing gear authorized for personal use.

10 **Sec. 29.** RCW 75.12.040 and 1985 c 147 s 1 are each amended to read  
11 as follows:

12 (1) It is unlawful to use, operate, or maintain a gill net which  
13 exceeds 250 fathoms in length or a drag seine in the waters of the  
14 Columbia river for catching salmon.

15 (2) It is unlawful to construct, install, use, operate, or maintain  
16 within state waters a pound net, round haul net, lampara net, fish  
17 trap, fish wheel, scow fish wheel, set net, weir, or fixed appliance  
18 for catching salmon. The director may authorize the use of this gear  
19 for scientific investigations.

20 (3) The department (~~(of fisheries)~~), in coordination with the  
21 Oregon department of fish and wildlife, shall adopt rules to regulate  
22 the use of monofilament in gill net webbing on the Columbia river.

23 **Sec. 30.** RCW 75.20.005 and 1991 c 322 s 21 are each amended to  
24 read as follows:

25 The department of (~~(fisheries, the department of)~~) fish and  
26 wildlife, the department of ecology, and the department of natural  
27 resources shall jointly develop an informational brochure that  
28 describes when permits and any other authorizations are required for  
29 flood damage prevention and reduction projects, and recommends ways to  
30 best proceed through the various regulatory permitting processes.

31 **Sec. 31.** RCW 75.20.050 and 1988 c 36 s 32 are each amended to read  
32 as follows:

33 It is the policy of this state that a flow of water sufficient to  
34 support game fish and food fish populations be maintained at all times  
35 in the streams of this state.

1       The director of ecology shall give the director (~~(of fisheries and~~  
2 ~~the director of wildlife)~~) notice of each application for a permit to  
3 divert or store water. The director (~~(of fisheries and director of~~  
4 ~~wildlife have)~~) has thirty days after receiving the notice to state  
5 (~~(their)~~) his or her objections to the application. The permit shall  
6 not be issued until the thirty-day period has elapsed.

7       The director of ecology may refuse to issue a permit if, in the  
8 opinion of the director (~~(of fisheries or director of wildlife)~~),  
9 issuing the permit might result in lowering the flow of water in a  
10 stream below the flow necessary to adequately support food fish and  
11 game fish populations in the stream.

12       The provisions of this section shall in no way affect existing  
13 water rights.

14       **Sec. 32.** RCW 75.20.100 and 1991 c 322 s 30 are each amended to  
15 read as follows:

16       In the event that any person or government agency desires to  
17 construct any form of hydraulic project or perform other work that will  
18 use, divert, obstruct, or change the natural flow or bed of any of the  
19 salt or fresh waters of the state, such person or government agency  
20 shall, before commencing construction or work thereon and to ensure the  
21 proper protection of fish life, secure the written approval of the  
22 department (~~(of fisheries or the department of wildlife)~~) as to the  
23 adequacy of the means proposed for the protection of fish life. This  
24 approval shall not be unreasonably withheld. Except as provided in RCW  
25 75.20.1001 and 75.20.1002, the department (~~(of fisheries or the~~  
26 ~~department of wildlife)~~) shall grant or deny approval within forty-five  
27 calendar days of the receipt of a complete application and notice of  
28 compliance with any applicable requirements of the state environmental  
29 policy act, made in the manner prescribed in this section. The  
30 applicant may document receipt of application by filing in person or by  
31 registered mail. A complete application for approval shall contain  
32 general plans for the overall project, complete plans and  
33 specifications of the proposed construction or work within the mean  
34 higher high water line in salt water or within the ordinary high water  
35 line in fresh water, and complete plans and specifications for the  
36 proper protection of fish life. The forty-five day requirement shall  
37 be suspended if (1) after ten working days of receipt of the  
38 application, the applicant remains unavailable or unable to arrange for

1 a timely field evaluation of the proposed project; (2) the site is  
2 physically inaccessible for inspection; or (3) the applicant requests  
3 delay. Immediately upon determination that the forty-five day period  
4 is suspended, the department (~~(of fisheries or the department of~~  
5 ~~wildlife))~~) shall notify the applicant in writing of the reasons for the  
6 delay. Approval is valid for a period of up to five years from date of  
7 issuance. The permittee must demonstrate substantial progress on  
8 construction of that portion of the project relating to the approval  
9 within two years of the date of issuance. If (~~(either))~~) the department  
10 (~~(of fisheries or the department of wildlife))~~) denies approval,  
11 (~~(that))~~) the department shall provide the applicant, in writing, a  
12 statement of the specific reasons why and how the proposed project  
13 would adversely affect fish life. Protection of fish life shall be the  
14 only ground upon which approval may be denied or conditioned. Chapter  
15 34.05 RCW applies to any denial of project approval, conditional  
16 approval, or requirements for project modification upon which approval  
17 may be contingent. If any person or government agency commences  
18 construction on any hydraulic works or projects subject to this section  
19 without first having obtained written approval of the department (~~(of~~  
20 ~~fisheries or the department of wildlife))~~) as to the adequacy of the  
21 means proposed for the protection of fish life, or if any person or  
22 government agency fails to follow or carry out any of the requirements  
23 or conditions as are made a part of such approval, the person or  
24 director of the agency is guilty of a gross misdemeanor. If any such  
25 person or government agency is convicted of violating any of the  
26 provisions of this section and continues construction on any such works  
27 or projects without fully complying with the provisions hereof, such  
28 works or projects are hereby declared a public nuisance and shall be  
29 subject to abatement as such.

30 For the purposes of this section and RCW 75.20.103, "bed" shall  
31 mean the land below the ordinary high water lines of state waters.  
32 This definition shall not include irrigation ditches, canals, storm  
33 water run-off devices, or other artificial watercourses except where  
34 they exist in a natural watercourse that has been altered by man.

35 The phrase "to construct any form of hydraulic project or perform  
36 other work" shall not include the act of driving across an established  
37 ford. Driving across streams or on wetted stream beds at areas other  
38 than established fords requires approval. Work within the ordinary

1 high water line of state waters to construct or repair a ford or  
2 crossing requires approval.

3 ~~((For each application, the department of fisheries and the  
4 department of wildlife shall mutually agree on whether the department  
5 of fisheries or the department of wildlife shall administer the  
6 provisions of this section, in order to avoid duplication of effort.  
7 The department designated to act shall cooperate with the other  
8 department in order to protect all species of fish life found at the  
9 project site. If the department of fisheries or the department of  
10 wildlife receives an application concerning a site not in its  
11 jurisdiction, it shall transmit the application to the other department  
12 within three days and notify the applicant.))~~

13 In case of an emergency arising from weather or stream flow  
14 conditions or other natural conditions, the department ~~((of fisheries  
15 or department of wildlife))~~, through ~~((their))~~ its authorized  
16 representatives, shall issue immediately upon request oral approval for  
17 removing any obstructions, repairing existing structures, restoring  
18 stream banks, or to protect property threatened by the stream or a  
19 change in the stream flow without the necessity of obtaining a written  
20 approval prior to commencing work. Conditions of an oral approval  
21 shall be reduced to writing within thirty days and complied with as  
22 provided for in this section. Oral approval shall be granted  
23 immediately upon request, for a stream crossing during an emergency  
24 situation.

25 This section shall not apply to the construction of any form of  
26 hydraulic project or other work which diverts water for agricultural  
27 irrigation or stock watering purposes authorized under or recognized as  
28 being valid by the state's water codes, or when such hydraulic project  
29 or other work is associated with streambank stabilization to protect  
30 farm and agricultural land as defined in RCW 84.34.020. These  
31 irrigation or stock watering diversion and streambank stabilization  
32 projects shall be governed by RCW 75.20.103.

33 **Sec. 33.** RCW 75.20.1001 and 1991 c 322 s 12 are each amended to  
34 read as follows:

35 The department ~~((of fisheries and the department of wildlife))~~  
36 shall process hydraulic project applications submitted under RCW  
37 75.20.100 or 75.20.103 within thirty days of receipt of the  
38 application. This requirement is only applicable for the repair and

1 reconstruction of legally constructed dikes, seawalls, and other flood  
2 control structures damaged as a result of flooding or windstorms that  
3 occurred in November and December 1990.

4 **Sec. 34.** RCW 75.20.103 and 1991 c 322 s 31 are each amended to  
5 read as follows:

6 In the event that any person or government agency desires to  
7 construct any form of hydraulic project or other work that diverts  
8 water for agricultural irrigation or stock watering purposes, or when  
9 such hydraulic project or other work is associated with streambank  
10 stabilization to protect farm and agricultural land as defined in RCW  
11 84.34.020, and when such diversion or streambank stabilization will  
12 use, divert, obstruct, or change the natural flow or bed of any river  
13 or stream or will utilize any waters of the state or materials from the  
14 stream beds, the person or government agency shall, before commencing  
15 construction or work thereon and to ensure the proper protection of  
16 fish life, secure a written approval from the department (~~of fisheries~~  
17 ~~or the department of wildlife~~) as to the adequacy of the means  
18 proposed for the protection of fish life. This approval shall not be  
19 unreasonably withheld. Except as provided in RCW 75.20.1001 and  
20 75.20.1002, the department (~~of fisheries or the department of~~  
21 ~~wildlife~~) shall grant or deny the approval within forty-five calendar  
22 days of the receipt of a complete application and notice of compliance  
23 with any applicable requirements of the state environmental policy act,  
24 made in the manner prescribed in this section. The applicant may  
25 document receipt of application by filing in person or by registered  
26 mail. A complete application for an approval shall contain general  
27 plans for the overall project, complete plans and specifications of the  
28 proposed construction or work within ordinary high water line, and  
29 complete plans and specifications for the proper protection of fish  
30 life. The forty-five day requirement shall be suspended if (1) after  
31 ten working days of receipt of the application, the applicant remains  
32 unavailable or unable to arrange for a timely field evaluation of the  
33 proposed project; (2) the site is physically inaccessible for  
34 inspection; or (3) the applicant requests delay.

35 Immediately upon determination that the forty-five day period is  
36 suspended, the department (~~of fisheries or the department of~~  
37 ~~wildlife~~) shall notify the applicant in writing of the reasons for the  
38 delay.

1 An approval shall remain in effect without need for periodic  
2 renewal for projects that divert water for agricultural irrigation or  
3 stock watering purposes and that involve seasonal construction or other  
4 work. Approval for streambank stabilization projects shall remain in  
5 effect without need for periodic renewal if the problem causing the  
6 need for the streambank stabilization occurs on an annual or more  
7 frequent basis. The permittee must notify the appropriate agency  
8 before commencing the construction or other work within the area  
9 covered by the approval.

10 The permittee must demonstrate substantial progress on construction  
11 of that portion of the project relating to the approval within two  
12 years of the date of issuance. If ~~((either))~~ the department ~~((of~~  
13 ~~fisheries or the department of wildlife))~~ denies approval, ~~((that))~~ the  
14 department shall provide the applicant, in writing, a statement of the  
15 specific reasons why and how the proposed project would adversely  
16 affect fish life. Protection of fish life shall be the only ground  
17 upon which approval may be denied or conditioned. Issuance, denial,  
18 conditioning, or modification shall be appealable to the hydraulic  
19 appeals board established in RCW 43.21B.005 within thirty days of the  
20 notice of decision. The burden shall be upon the department ~~((of~~  
21 ~~fisheries or the department of wildlife))~~ to show that the denial or  
22 conditioning of an approval is solely aimed at the protection of fish  
23 life.

24 The department ~~((granting approval))~~ may, after consultation with  
25 the permittee, modify an approval due to changed conditions. The  
26 modifications shall become effective unless appealed to the hydraulic  
27 appeals board within thirty days from the notice of the proposed  
28 modification. The burden is on the department ~~((issuing the approval))~~  
29 to show that changed conditions warrant the modification in order to  
30 protect fish life.

31 A permittee may request modification of an approval due to changed  
32 conditions. The request shall be processed within forty-five calendar  
33 days of receipt of the written request. A decision by the department  
34 ~~((that issued the approval))~~ may be appealed to the hydraulic appeals  
35 board within thirty days of the notice of the decision. The burden is  
36 on the permittee to show that changed conditions warrant the requested  
37 modification and that such modification will not impair fish life.

38 If any person or government agency commences construction on any  
39 hydraulic works or projects subject to this section without first

1 having obtained written approval of the department (~~(of fisheries or~~  
2 ~~the department of wildlife)~~) as to the adequacy of the means proposed  
3 for the protection of fish life, or if any person or government agency  
4 fails to follow or carry out any of the requirements or conditions as  
5 are made a part of such approval, the person or director of the agency  
6 is guilty of a gross misdemeanor. If any such person or government  
7 agency is convicted of violating any of the provisions of this section  
8 and continues construction on any such works or projects without fully  
9 complying with the provisions hereof, such works or projects are hereby  
10 declared a public nuisance and shall be subject to abatement as such.

11 (~~For each application, the department of fisheries and the~~  
12 ~~department of wildlife shall mutually agree on whether the department~~  
13 ~~of fisheries or the department of wildlife shall administer the~~  
14 ~~provisions of this section, in order to avoid duplication of effort.~~  
15 ~~The department designated to act shall cooperate with the other~~  
16 ~~department in order to protect all species of fish life found at the~~  
17 ~~project site. If the department of fisheries or the department of~~  
18 ~~wildlife receives an application concerning a site not in its~~  
19 ~~jurisdiction, it shall transmit the application to the other department~~  
20 ~~within three days and notify the applicant.))~~

21 In case of an emergency arising from weather or stream flow  
22 conditions or other natural conditions, the department (~~(of fisheries~~  
23 ~~or department of wildlife)~~), through (~~(their)~~) its authorized  
24 representatives, shall issue immediately upon request oral approval for  
25 removing any obstructions, repairing existing structures, restoring  
26 stream banks, or to protect property threatened by the stream or a  
27 change in the stream flow without the necessity of obtaining a written  
28 approval prior to commencing work. Conditions of an oral approval  
29 shall be reduced to writing within thirty days and complied with as  
30 provided for in this section.

31 For purposes of this chapter, "streambank stabilization" shall  
32 include but not be limited to log and debris removal, bank protection  
33 (including riprap, jetties, and groins), gravel removal and erosion  
34 control.

35 **Sec. 35.** RCW 75.20.104 and 1991 c 322 s 18 are each amended to  
36 read as follows:

37 Whenever the placement of woody debris is required as a condition  
38 of a hydraulic permit approval issued pursuant to RCW 75.20.100 or

1 75.20.103, the department (~~of fisheries and the department of~~  
2 ~~wildlife~~)), upon request, shall invite comment regarding that placement  
3 from the local governmental authority, affected tribes, affected  
4 federal and state agencies, and the project applicant.

5 **Sec. 36.** RCW 75.20.1041 and 1991 c 322 s 19 are each amended to  
6 read as follows:

7 The department (~~of fisheries, the department of wildlife,~~) and  
8 the department of ecology will work cooperatively with the United  
9 States army corps of engineers to develop a memorandum of agreement  
10 outlining dike vegetation management guidelines so that dike owners are  
11 eligible for coverage under P.L. 84-99, and state requirements  
12 established pursuant to RCW 75.20.100 and 75.20.103 are met.

13 **Sec. 37.** RCW 75.20.106 and 1988 c 36 s 35 are each amended to read  
14 as follows:

15 The department (~~of fisheries and the department of wildlife~~) may  
16 (~~each~~) levy civil penalties of up to one hundred dollars per day for  
17 violation of any provisions of RCW 75.20.100 or 75.20.103. The penalty  
18 provided shall be imposed by notice in writing, either by certified  
19 mail or personal service to the person incurring the penalty, from the  
20 director (~~of the appropriate department~~) or (~~that~~) the director's  
21 designee describing the violation. Any person incurring any penalty  
22 under this chapter may appeal the same under chapter 34.05 RCW to the  
23 director (~~of the department levying the penalty~~). Appeals shall be  
24 filed within thirty days of receipt of notice imposing any penalty.  
25 The penalty imposed shall become due and payable thirty days after  
26 receipt of a notice imposing the penalty unless an appeal is filed.  
27 Whenever an appeal of any penalty incurred under this chapter is filed,  
28 the penalty shall become due and payable only upon completion of all  
29 review proceedings and the issuance of a final order confirming the  
30 penalty in whole or in part.

31 If the amount of any penalty is not paid within thirty days after  
32 it becomes due and payable the attorney general, upon the request of  
33 the director (~~of the department of fisheries or the department of~~  
34 ~~wildlife~~)) shall bring an action in the name of the state of Washington  
35 in the superior court of Thurston county or of any county in which such  
36 violator may do business, to recover such penalty. In all such actions  
37 the procedure and rules of evidence shall be the same as an ordinary



1 civil action. All penalties recovered under this section shall be paid  
2 into the state's general fund.

3 **Sec. 38.** RCW 75.20.110 and 1988 c 36 s 36 are each amended to read  
4 as follows:

5 (1) Except for the north fork of the Lewis river and the White  
6 Salmon river, all streams and rivers tributary to the Columbia river  
7 downstream from McNary dam are established as an anadromous fish  
8 sanctuary. This sanctuary is created to preserve and develop the food  
9 fish and game fish resources in these streams and rivers and to protect  
10 them against undue industrial encroachment.

11 (2) Within the sanctuary area:

12 (a) It is unlawful to construct a dam greater than twenty-five feet  
13 high within the migration range of anadromous fish as ~~((jointly))~~  
14 determined by the director ~~((of fisheries and the director of~~  
15 ~~wildlife))~~.

16 (b) Except by ~~((concurrent))~~ order of the director ~~((of fisheries~~  
17 ~~and director of wildlife))~~, it is unlawful to divert water from rivers  
18 and streams in quantities that will reduce the respective stream flow  
19 below the annual average low flow, based upon data published in United  
20 States geological survey reports.

21 (3) The director ~~((of fisheries and the director of wildlife))~~ may  
22 acquire and abate a dam or other obstruction, or acquire any water  
23 right vested on a sanctuary stream or river, which is in conflict with  
24 the provisions of subsection (2) of this section.

25 (4) Subsection (2)(a) of this section does not apply to the  
26 sediment retention structure to be built on the North Fork Toutle river  
27 by the United States army corps of engineers.

28 **Sec. 39.** RCW 75.20.130 and 1989 c 175 s 160 are each amended to  
29 read as follows:

30 (1) There is hereby created within the environmental hearings  
31 office under RCW 43.21B.005 the hydraulic appeals board of the state of  
32 Washington.

33 (2) The hydraulic appeals board shall consist of three members:  
34 The director of the department of ecology or the director's designee,  
35 the director of the department of agriculture or the director's  
36 designee, and the director or the director's designee of the department  
37 whose action is appealed under subsection (6) of this section. A

1 decision must be agreed to by at least two members of the board to be  
2 final.

3 (3) The board may adopt rules necessary for the conduct of its  
4 powers and duties or for transacting other official business.

5 (4) The board shall make findings of fact and prepare a written  
6 decision in each case decided by it, and that finding and decision  
7 shall be effective upon being signed by two or more board members and  
8 upon being filed at the hydraulic appeals board's principal office, and  
9 shall be open to public inspection at all reasonable times.

10 (5) The board has exclusive jurisdiction to hear appeals arising  
11 from the approval, denial, conditioning, or modification of a hydraulic  
12 approval issued by ((either)) the department ((of fisheries or the  
13 department of wildlife)) under the authority granted in RCW 75.20.103  
14 for the diversion of water for agricultural irrigation or stock  
15 watering purposes or when associated with streambank stabilization to  
16 protect farm and agricultural land as defined in RCW 84.34.020.

17 (6)(a) Any person aggrieved by the approval, denial, conditioning,  
18 or modification of a hydraulic approval pursuant to RCW 75.20.103 may  
19 seek review from the board by filing a request for the same within  
20 thirty days of notice of the approval, denial, conditioning, or  
21 modification of such approval.

22 (b) The review proceedings authorized in (a) of this subsection are  
23 subject to the provisions of chapter 34.05 RCW pertaining to procedures  
24 in adjudicative proceedings.

25 **Sec. 40.** RCW 75.20.300 and 1989 c 213 s 3 are each amended to read  
26 as follows:

27 (1) The legislature intends to expedite flood-control, acquisition  
28 of sites for sediment retention, and dredging operations in those  
29 rivers affected by the May 1980 eruption of Mt. St. Helens, while  
30 continuing to protect the fish resources of these rivers.

31 (2) The director ((of fisheries and director of wildlife)) shall  
32 process hydraulic project applications submitted under RCW 75.20.100  
33 within fifteen working days of receipt of the application. This  
34 requirement is only applicable to flood control and dredging projects  
35 located in the Cowlitz river from mile 22 to the confluence with the  
36 Columbia, and in the Toutle river from the mouth to the North Fork  
37 Toutle sediment dam site at North Fork mile 12, and to river mile 3 on

1 the South Fork Toutle river, and volcano-affected areas of the Columbia  
2 river.

3 (3) For the purposes of this section, the emergency provisions of  
4 RCW 75.20.100 may be initiated by the county legislative authority if  
5 the project is necessary to protect human life or property from flood  
6 hazards, including:

7 (a) Flood fight measures necessary to provide protection during a  
8 flood event; or

9 (b) Measures necessary to reduce or eliminate a potential flood  
10 threat when other alternative measures are not available or cannot be  
11 completed prior to the expected flood threat season; or

12 (c) Measures which must be initiated and completed within an  
13 immediate period of time and for which processing of the request  
14 through normal methods would cause a delay to the project and such  
15 delay would significantly increase the potential for damages from a  
16 flood event.

17 (4) This section does not apply to the sediment retention structure  
18 to be built on the North Fork Toutle river by the United States army  
19 corps of engineers.

20 (5) This section expires on June 30, 1995.

21 **Sec. 41.** RCW 75.20.310 and 1988 c 36 s 39 are each amended to read  
22 as follows:

23 The legislature recognizes the need to mitigate the effects of  
24 sedimentary build-up and resultant damage to fish population in the  
25 Toutle river resulting from the Mt. St. Helens eruption. The state has  
26 entered into a contractual agreement with the United States army corps  
27 of engineers designed to minimize fish habitat disruption created by  
28 the sediment retention structure on the Toutle river, under which the  
29 corps has agreed to construct a fish collection facility at the  
30 sediment retention structure site conditional upon the state assuming  
31 the maintenance and operation costs of the facility. The department  
32 (~~((of wildlife and the department of fisheries))~~) shall (~~((cooperatively))~~)  
33 operate and maintain a fish collection facility on the Toutle river.  
34 (~~((Each agency shall share in the cost of operating and maintaining the~~  
35 ~~facility.))~~)

36 **Sec. 42.** RCW 75.24.065 and 1985 c 256 s 2 are each amended to read  
37 as follows:

1 The legislature finds that current environmental and economic  
2 conditions warrant a renewal of the state's historical practice of  
3 actively cultivating and managing its oyster reserves in Puget Sound to  
4 produce the state's native oyster, the Olympia oyster. The department  
5 (~~of fisheries~~) shall reestablish dike cultivated production of  
6 Olympia oysters on such reserves on a trial basis as a tool for  
7 planning more comprehensive cultivation by the state.

8 **Sec. 43.** RCW 75.25.005 and 1989 c 305 s 1 are each amended to read  
9 as follows:

10 The following recreational fishing licenses are administered and  
11 issued by the department (~~of fisheries~~) under authority of the  
12 director (~~of fisheries~~):

- 13 (1) Hood Canal shrimp license;
- 14 (2) Razor clam license;
- 15 (3) Personal use fishing license;
- 16 (4) Salmon license; and
- 17 (5) Sturgeon license.

18 **Sec. 44.** RCW 75.25.080 and 1989 c 305 s 4 are each amended to read  
19 as follows:

20 (1) It is lawful to dig the personal-use daily bag limit of razor  
21 clams for another person if that person has in possession a physical  
22 disability permit issued by the director.

23 (2) An application for a physical disability permit must be  
24 submitted on a department (~~of fisheries~~) official form and must be  
25 accompanied by a licensed medical doctor's certification of disability.

26 **Sec. 45.** RCW 75.25.170 and 1989 c 305 s 16 are each amended to  
27 read as follows:

28 Fees received for recreational licenses required under this chapter  
29 shall be deposited in the general fund and shall be appropriated for  
30 management, enhancement, research, and enforcement purposes of the  
31 shellfish, salmon, and marine fish programs of the department (~~of  
32 fisheries~~)).

33 **Sec. 46.** RCW 75.25.180 and 1989 c 305 s 14 are each amended to  
34 read as follows:

1 Recreational licenses issued by the department ((of fisheries))  
2 under this chapter are valid for the following periods:

3 (1) Recreational licenses issued without charge to persons  
4 designated by this chapter are valid:

5 (a) For life for blind persons;

6 (b) For the period of continued state residency for qualified  
7 disabled veterans;

8 (c) For the period of continued state residency for persons sixty-  
9 five years of age or more;

10 (d) For the period of the disability for persons with a  
11 developmental disability;

12 (e) For life for handicapped persons confined to a wheelchair who  
13 have been issued a permanent disability card; and

14 (f) Until a child reaches fifteen years of age.

15 (2) Two-consecutive-day personal use licenses expire at midnight on  
16 the day following the validation date written on the license by the  
17 license dealer, except two-consecutive-day personal use licenses  
18 validated for December 31 expire at midnight on that date.

19 (3) An annual salmon license is valid for a maximum catch of  
20 fifteen salmon, after which another salmon license may be purchased.  
21 A salmon license is valid only for the calendar year for which it is  
22 issued.

23 (4) An annual sturgeon license is valid for a maximum catch of  
24 fifteen sturgeon. A sturgeon license is valid only for the calendar  
25 year for which it is issued.

26 (5) All other recreational licenses are valid for the calendar year  
27 for which they are issued.

28 **Sec. 47.** RCW 75.50.010 and 1985 c 458 s 1 are each amended to read  
29 as follows:

30 Currently, many of the salmon stocks of Washington state are  
31 critically reduced from their sustainable level. The best interests of  
32 all fishing groups and the citizens as a whole are served by a stable  
33 and productive salmon resource. Immediate action is needed to reverse  
34 the severe decline of the resource and to insure its very survival.  
35 The legislature finds a state of emergency exists and that immediate  
36 action is required to restore its fishery.

37 Disagreement and strife have dominated the salmon fisheries for  
38 many years. Conflicts among the various fishing interests have only

1 served to erode the resource. It is time for the state of Washington  
2 to make a major commitment to increasing productivity of the resource  
3 and to move forward with an effective rehabilitation and enhancement  
4 program. The department (~~(of fisheries)~~) is directed to dedicate its  
5 efforts to make increasing the productivity of the salmon resource a  
6 first priority and to seek resolution to the many conflicts that  
7 involve the resource.

8 Success of the enhancement program can only occur if projects  
9 efficiently produce salmon or restore habitat. The expectation of the  
10 program is to optimize the efficient use of funding on projects that  
11 will increase artificially and naturally produced salmon, restore and  
12 improve habitat, or identify ways to increase the survival of salmon.  
13 The full utilization of state resources and cooperative efforts with  
14 interested groups are essential to the success of the program.

15 **Sec. 48.** RCW 75.50.070 and 1989 c 426 s 1 are each amended to read  
16 as follows:

17 The legislature finds that it is in the best interest of the salmon  
18 resource of the state to encourage the development of regional  
19 fisheries enhancement groups. The accomplishments of one existing  
20 group, the Grays Harbor fisheries enhancement task force, have been  
21 widely recognized as being exemplary. The legislature recognizes the  
22 potential benefits to the state that would occur if each region of the  
23 state had a similar group of dedicated citizens working to enhance the  
24 salmon resource.

25 The legislature authorizes the formation of regional fisheries  
26 enhancement groups. These groups shall be eligible for state financial  
27 support and shall be actively supported by the department (~~(of~~  
28 ~~fisheries)~~). The regional groups shall be operated on a strictly  
29 nonprofit basis, and shall seek to maximize the efforts of volunteer  
30 and private donations to improve the salmon resource for all citizens  
31 of the state.

32 **Sec. 49.** RCW 75.50.080 and 1989 c 426 s 4 are each amended to read  
33 as follows:

34 Regional fisheries enhancement groups, consistent with the long-  
35 term regional policy statements developed under RCW 75.50.020, shall  
36 seek to:

37 (1) Enhance the salmon resource of the state;

1 (2) Maximize volunteer efforts and private donations to improve the  
2 salmon resource for all citizens;

3 (3) Assist the department in achieving the goal to double the  
4 state-wide salmon catch by the year 2000 under chapter 214, Laws of  
5 1988; and

6 (4) Develop projects designed to supplement the fishery enhancement  
7 capability of the department (~~(of fisheries)~~).

8 **Sec. 50.** RCW 75.50.130 and 1992 c 88 s 1 are each amended to read  
9 as follows:

10 The director (~~(of fisheries)~~) shall prepare a salmon recovery plan  
11 for the Skagit river. The plan shall include strategies for employing  
12 displaced timber workers to conduct salmon restoration and other tasks  
13 identified in the plan. The plan shall incorporate the best available  
14 technology in order to achieve maximum restoration of depressed salmon  
15 stocks. The plan must encourage the restoration of natural spawning  
16 areas and natural rearing of salmon but must not preclude the  
17 development of an active hatchery program.

18 **Sec. 51.** RCW 75.52.010 and 1988 c 36 s 41 are each amended to read  
19 as follows:

20 The fish and (~~(game)~~) wildlife resources of the state benefit by  
21 the contribution of volunteer recreational and commercial fishing  
22 organizations, schools, and other volunteer groups in cooperative  
23 projects under agreement with the department (~~(of fisheries or the~~  
24 ~~department of wildlife)~~). These projects provide educational  
25 opportunities, improve the communication between the natural resources  
26 agencies and the public, and increase the fish and game resources of  
27 the state. In an effort to increase these benefits and realize the  
28 full potential of cooperative projects, the department (~~(of fisheries~~  
29 ~~and the department of wildlife each)~~) shall administer a  
30 (~~(cooperative)~~) fish and wildlife enhancement program and enter  
31 agreements with volunteer groups relating to the operation of  
32 (~~(cooperative)~~) projects.

33 **Sec. 52.** RCW 75.52.020 and 1988 c 36 s 42 are each amended to read  
34 as follows:

35 Unless the context clearly requires otherwise, the definitions in  
36 this section apply throughout this chapter.

1 (1) "Volunteer group" means any person or group of persons  
2 interested in or party to an agreement with the department (~~of~~  
3 ~~fisheries or the department of wildlife~~) relating to a cooperative  
4 fish or (~~game~~) wildlife project.

5 (2) "Cooperative project" means a project conducted by a volunteer  
6 group that will benefit the fish, shellfish, game bird, nongame  
7 wildlife, or game animal resources of the state and for which the  
8 benefits of the project, including fish and (~~game~~) wildlife reared  
9 and released, are available to all citizens of the state. Indian  
10 tribes may elect to participate in cooperative fish and wildlife  
11 projects with the department.

12 (3) "Department" means (~~either~~) the department of (~~fisheries or~~  
13 ~~the department of~~) fish and wildlife (~~(, whichever is responsible for~~  
14 ~~managing the species of fish or game most affected by the cooperative~~  
15 ~~project)~~).

16 **Sec. 53.** RCW 75.52.035 and 1987 c 48 s 1 are each amended to read  
17 as follows:

18 The department (~~of fisheries~~) may authorize the sale of surplus  
19 salmon eggs and carcasses by permitted cooperative projects for the  
20 purposes of defraying the expenses of the cooperative project. In no  
21 instance shall the department allow a profit to be realized through  
22 such sales. The department shall adopt rules to implement this section  
23 pursuant to chapter 34.05 RCW.

24 **Sec. 54.** RCW 75.52.100 and 1989 c 85 s 3 are each amended to read  
25 as follows:

26 A salmon spawning channel shall be constructed on the Cedar river  
27 with the assistance and cooperation of the (~~state~~) department (~~of~~  
28 ~~fisheries~~). The department shall use existing personnel and the  
29 volunteer fisheries enhancement program outlined under chapter 75.52  
30 RCW to assist in the planning, construction, and operation of the  
31 spawning channel.

32 **Sec. 55.** RCW 75.52.110 and 1989 c 85 s 4 are each amended to read  
33 as follows:

34 The department (~~of fisheries~~) shall chair a technical committee,  
35 which shall review the preparation of enhancement plans and  
36 construction designs for a Cedar river sockeye spawning channel. The



1 technical committee shall consist of not more than eight members: One  
2 representative each from the department (~~(of fisheries)~~), national  
3 marine fisheries service, United States fish and wildlife service, and  
4 Muckleshoot Indian tribe; and four representatives from the public  
5 utility described in RCW 75.52.130. The technical committee will be  
6 guided by a policy committee, also to be chaired by the department (~~(of~~  
7 ~~fisheries)~~), which shall consist of not more than six members: One  
8 representative from the department (~~(of fisheries)~~), one from the  
9 Muckleshoot Indian tribe, and one from either the national marine  
10 fisheries service or the United States fish and wildlife service; and  
11 three representatives from the public utility described in RCW  
12 75.52.130. The policy committee shall present a progress report to the  
13 senate and house of representatives natural resources and environment  
14 committees by January 1, 1990, and shall oversee the operation and  
15 evaluation of the spawning channel. The policy committee will continue  
16 its oversight until the policy committee concludes that the channel is  
17 meeting the production goals specified in RCW 75.52.120.

18 **Sec. 56.** RCW 75.52.160 and 1989 c 85 s 10 are each amended to read  
19 as follows:

20 Should the requirements of RCW 75.52.100 through 75.52.160 not be  
21 met, the department (~~(of fisheries)~~) shall seek immediate legal  
22 clarification of the steps which must be taken to fully mitigate water  
23 diversion projects on the Cedar river.

24 **Sec. 57.** RCW 75.58.010 and 1988 c 36 s 43 are each amended to read  
25 as follows:

26 (1) The director of agriculture and the director (~~(of fisheries)~~)  
27 shall jointly develop a program of disease inspection and control for  
28 aquatic farmers as defined in RCW 15.85.020. The program shall be  
29 administered by the department (~~(of fisheries)~~) under rules established  
30 under this section. The purpose of the program is to protect the  
31 aquaculture industry and wildstock fisheries from a loss of  
32 productivity due to aquatic diseases or maladies. As used in this  
33 section "diseases" means, in addition to its ordinary meaning,  
34 infestations of parasites or pests. The disease program may include,  
35 but is not limited to, the following elements:

- 36 (a) Disease diagnosis;  
37 (b) Import and transfer requirements;

1 (c) Provision for certification of stocks;  
2 (d) Classification of diseases by severity;  
3 (e) Provision for treatment of selected high-risk diseases;  
4 (f) Provision for containment and eradication of high-risk  
5 diseases;  
6 (g) Provision for destruction of diseased cultured aquatic  
7 products;  
8 (h) Provision for quarantine of diseased cultured aquatic products;  
9 (i) Provision for coordination with state and federal agencies;  
10 (j) Provision for development of preventative or control measures;  
11 (k) Provision for cooperative consultation service to aquatic  
12 farmers; and  
13 (l) Provision for disease history records.  
14 (2) The director (~~(of fisheries)~~) shall adopt rules implementing  
15 this section. However, such rules shall have the prior approval of the  
16 director of agriculture and shall provide therein that the director of  
17 agriculture has provided such approval. The director of agriculture or  
18 the director's designee shall attend the rule-making hearings conducted  
19 under chapter 34.05 RCW and shall assist in conducting those hearings.  
20 The authorities granted the department (~~(of fisheries)~~) by these rules  
21 and by RCW 75.08.080(1)(g), 75.24.080, 75.24.110, 75.28.125, 75.58.020,  
22 75.58.030, and 75.58.040 constitute the only authorities of the  
23 department (~~(of fisheries)~~) to regulate private sector cultured aquatic  
24 products and aquatic farmers as defined in RCW 15.85.020. Except as  
25 provided in subsection (3) of this section, no action may be taken  
26 against any person to enforce these rules unless the department has  
27 first provided the person an opportunity for a hearing. In such a  
28 case, if the hearing is requested, no enforcement action may be taken  
29 before the conclusion of that hearing.  
30 (3) The rules adopted under this section shall specify the  
31 emergency enforcement actions that may be taken by the department (~~(of~~  
32 ~~fisheries)~~), and the circumstances under which they may be taken,  
33 without first providing the affected party with an opportunity for a  
34 hearing. Neither the provisions of this subsection nor the provisions  
35 of subsection (2) of this section shall preclude the department (~~(of~~  
36 ~~fisheries)~~) from requesting the initiation of criminal proceedings for  
37 violations of the disease inspection and control rules.

1 (4) It is unlawful for any person to violate the rules adopted  
2 under subsection (2) or (3) of this section or to violate RCW  
3 75.58.040.

4 (5) In administering the program established under this section,  
5 the department (~~(of fisheries)~~) shall use the services of a pathologist  
6 licensed to practice veterinary medicine.

7 (6) The director in administering the program shall not place  
8 constraints on or take enforcement actions in respect to the  
9 aquaculture industry that are more rigorous than those placed on the  
10 department (~~(of fisheries, the department of wildlife,)~~) or other fish-  
11 rearing entities.

12 **Sec. 58.** RCW 75.58.020 and 1985 c 457 s 9 are each amended to read  
13 as follows:

14 The directors of agriculture and (~~(fisheries)~~) fish and wildlife  
15 shall jointly adopt by rule, in the manner prescribed in RCW  
16 75.58.010(2), a schedule of user fees for the disease inspection and  
17 control program established under RCW 75.58.010. The fees shall be  
18 established such that the program shall be entirely funded by revenues  
19 derived from the user fees by the beginning of the 1987-89 biennium.

20 There is established in the state treasury an account known as the  
21 aquaculture disease control account which is subject to appropriation.  
22 Proceeds of fees charged under this section shall be deposited in the  
23 account. Moneys from the account shall be used solely for  
24 administering the disease inspection and control program established  
25 under RCW 75.58.010.

26 **Sec. 59.** RCW 75.58.030 and 1988 c 36 s 44 are each amended to read  
27 as follows:

28 (1) The director (~~(of fisheries)~~) shall consult regarding the  
29 disease inspection and control program established under RCW 75.58.010  
30 with (~~(the department of wildlife,)~~) federal agencies(~~(,)~~) and Indian  
31 tribes to assure protection of state, federal, and tribal aquatic  
32 resources and to protect private sector cultured aquatic products from  
33 disease that could originate from waters or facilities managed by those  
34 agencies.

35 (2) With regard to the program, the director (~~(of fisheries)~~) may  
36 enter into contracts or interagency agreements for diagnostic field

1 services with government agencies and institutions of higher education  
2 and private industry.

3 (3) The director (~~((of fisheries))~~) shall provide for the creation  
4 and distribution of a roster of biologists having a specialty in the  
5 diagnosis or treatment of diseases of fish or shellfish. The director  
6 shall adopt rules specifying the qualifications which a person must  
7 have in order to be placed on the roster.

8 **Sec. 60.** RCW 75.58.040 and 1988 c 36 s 45 are each amended to read  
9 as follows:

10 All aquatic farmers as defined in RCW 15.85.020 shall register with  
11 the department (~~((of fisheries))~~). The director shall develop and  
12 maintain a registration list of all aquaculture farms. Registered  
13 aquaculture farms shall provide the department production statistical  
14 data. The state veterinarian (~~((and the department of wildlife))~~) shall  
15 be provided with registration and statistical data by the department.

16 **Sec. 61.** RCW 77.04.020 and 1987 c 506 s 4 are each amended to read  
17 as follows:

18 The department (~~((of wildlife))~~) consists of the state wildlife  
19 commission and the director (~~((of wildlife))~~). The director is  
20 responsible for the administration and operation of the department,  
21 subject to the provisions of this title. The commission may delegate  
22 to the director additional duties and powers necessary and appropriate  
23 to carry out this title. The director shall perform the duties  
24 prescribed by law and shall carry out the basic goals and objectives  
25 prescribed pursuant to RCW 77.04.055.

26 **Sec. 62.** RCW 77.04.100 and 1985 c 208 s 2 are each amended to read  
27 as follows:

28 The director(~~(, in cooperation with the director of fisheries))~~)  
29 shall develop proposals to reinstate the natural salmon and steelhead  
30 trout fish runs in the Tilton and upper Cowlitz rivers in accordance  
31 with RCW 75.08.020(3).

32 **Sec. 63.** RCW 77.12.055 and 1988 c 36 s 50 are each amended to read  
33 as follows:

34 (1) Jurisdiction and authority granted under RCW 77.12.060,  
35 77.12.070, and 77.12.080 to the director, wildlife agents, and ex

1 officio wildlife agents is limited to the laws and rules adopted  
2 pursuant to this title pertaining to wildlife or to the management,  
3 operation, maintenance, or use of or conduct on real property used,  
4 owned, leased, or controlled by the department and other statutes as  
5 prescribed by the legislature. However, when acting within the scope  
6 of these duties and when an offense occurs in the presence of the  
7 wildlife agent who is not an ex officio wildlife agent, the wildlife  
8 agent may enforce all criminal laws of the state. The wildlife agent  
9 must have successfully completed the basic law enforcement academy  
10 course sponsored by the criminal justice training commission, or a  
11 supplemental course in criminal law enforcement as approved by the  
12 department and the criminal justice training commission and provided by  
13 the department or the criminal justice training commission, prior to  
14 enforcing the criminal laws of the state.

15 (2) Wildlife agents are peace officers.

16 (3) Any liability or claim of liability which arises out of the  
17 exercise or alleged exercise of authority by a wildlife agent rests  
18 with the department unless the wildlife agent acts under the direction  
19 and control of another agency or unless the liability is otherwise  
20 assumed under a written agreement between the department ((~~of~~  
21 ~~wildlife~~)) and another agency.

22 (4) Wildlife agents may serve and execute warrants and processes  
23 issued by the courts.

24 **Sec. 64.** RCW 77.12.103 and 1989 c 314 s 3 are each amended to read  
25 as follows:

26 (1) The burden of proof of any exemption or exception to seizure or  
27 forfeiture of personal property involved with wildlife offenses is upon  
28 the person claiming it.

29 (2) An authorized state, county, or municipal officer may be  
30 subject to civil liability under RCW 77.12.101 for willful misconduct  
31 or gross negligence in the performance of his or her duties.

32 (3) The director ((~~of wildlife~~)), the wildlife commission, or the  
33 department ((~~of wildlife~~)) may be subject to civil liability for their  
34 willful or reckless misconduct in matters involving the seizure and  
35 forfeiture of personal property involved with wildlife offenses.

36 **Sec. 65.** RCW 77.12.440 and 1987 c 506 s 47 are each amended to  
37 read as follows:

1       The state assents to the act of congress entitled: "An Act to  
2 provide that the United States shall aid the states in fish restoration  
3 and management projects, and for other purposes," (64 Stat. 430; 16  
4 U.S.C. Sec. 777). The department (~~of wildlife and the department of~~  
5 ~~fisheries~~) shall establish, conduct, and maintain fish restoration and  
6 management projects, as defined in the act, and shall comply with the  
7 act and related rules adopted by the secretary of the interior.

8       **Sec. 66.** RCW 77.12.710 and 1990 c 110 s 2 are each amended to read  
9 as follows:

10       The legislature hereby directs the department (~~of wildlife~~) to  
11 determine the feasibility and cost of doubling the state-wide game fish  
12 production by the year 2000. The department shall seek to equalize the  
13 effort and investment expended on anadromous and resident game fish  
14 programs. The department (~~of wildlife~~) shall provide the legislature  
15 with a specific plan for legislative approval that will outline the  
16 feasibility of increasing game fish production by one hundred percent  
17 over current levels by the year 2000. The plan shall contain specific  
18 provisions to increase both hatchery and naturally spawning game fish  
19 to a level that will support the production goal established in this  
20 section consistent with wildlife commission policies. Steelhead trout,  
21 searun cutthroat trout, resident trout, and warmwater fish producing  
22 areas of the state shall be included in the plan. The department (~~of~~  
23 ~~wildlife~~) shall provide the plan to the house of representatives and  
24 senate ways and means, environment and natural resources, environmental  
25 affairs, fisheries and wildlife, and natural resources committees by  
26 December 31, 1990.

27       The plan shall include the following critical elements:

28       (1) Methods of determining current catch and production, and catch  
29 and production in the year 2000;

30       (2) Methods of involving fishing groups, including Indian tribes,  
31 in a cooperative manner;

32       (3) Methods for using low capital cost projects to produce game  
33 fish as inexpensively as possible;

34       (4) Methods for renovating and modernizing all existing hatcheries  
35 and rearing ponds to maximize production capability;

36       (5) Methods for increasing the productivity of natural spawning  
37 game fish;

- 1 (6) Application of new technology to increase hatchery and natural  
2 productivity;
- 3 (7) Analysis of the potential for private contractors to produce  
4 game fish for public fisheries;
- 5 (8) Methods to optimize public volunteer efforts and cooperative  
6 projects for maximum efficiency;
- 7 (9) Methods for development of trophy game fish fisheries;
- 8 (10) Elements of coordination with the Pacific Northwest Power  
9 Council programs to ensure maximum Columbia river benefits;
- 10 (11) The role that should be played by private consulting companies  
11 in developing and implementing the plan;
- 12 (12) Coordination with federal fish and wildlife agencies, Indian  
13 tribes, and department (~~(of fisheries)~~) fish production programs;
- 14 (13) Future needs for game fish predator control measures;
- 15 (14) Development of disease control measures;
- 16 (15) Methods for obtaining access to waters currently not available  
17 to anglers; and
- 18 (16) Development of research programs to support game fish  
19 management and enhancement programs.

20 The department (~~(of wildlife)~~), in cooperation with the department  
21 of revenue, shall assess various funding mechanisms and make  
22 recommendations to the legislature in the plan. The department (~~(of~~  
23 ~~wildlife)~~), in cooperation with the department of trade and economic  
24 development, shall prepare an analysis of the economic benefits to the  
25 state that will occur when the game fish production is increased by one  
26 hundred percent in the year 2000.

27 **Sec. 67.** RCW 77.12.730 and 1990 c 195 s 3 are each amended to read  
28 as follows:

29 (1) A ten-member firearms range advisory committee is hereby  
30 created to provide advice and counsel to the interagency committee for  
31 outdoor recreation. The members shall be appointed by the director of  
32 the interagency committee for outdoor recreation from the following  
33 groups:

- 34 (a) Law enforcement;
- 35 (b) Washington military department;
- 36 (c) Black powder shooting sports;
- 37 (d) Rifle shooting sports;
- 38 (e) Pistol shooting sports;

- 1 (f) Shotgun shooting sports;
- 2 (g) Archery shooting sports;
- 3 (h) Hunter education;
- 4 (i) Hunters; and
- 5 (j) General public.

6 (2) The firearms range advisory committee members shall serve two-  
7 year terms with five new members being selected each year beginning  
8 with the third year of the committee's existence. The firearms range  
9 advisory committee members shall not receive compensation from the  
10 firearms range account. However, travel and per diem costs shall be  
11 paid consistent with regulations for state employees.

12 (3) The interagency committee for outdoor recreation shall provide  
13 administrative, operational, and logistical support for the firearms  
14 range advisory committee. Expenses directly incurred for supporting  
15 this program may be charged by the interagency committee for outdoor  
16 recreation against the firearms range account. Expenses shall not  
17 exceed ten percent of the yearly income for the range account.

18 (4) The interagency committee for outdoor recreation shall in  
19 cooperation with the firearms range advisory committee:

- 20 (a) Develop an application process;
- 21 (b) Develop an audit and accountability program;
- 22 (c) Screen, prioritize, and approve grant applications; and
- 23 (d) Monitor compliance by grant recipients.

24 (5) The department of natural resources, the department of fish and  
25 wildlife, and the Washington military department are encouraged to  
26 provide land, facilitate land exchanges, and support the development of  
27 shooting range facilities.

28 **Sec. 68.** RCW 77.12.750 and 1992 c 63 s 13 are each amended to read  
29 as follows:

30 (1) The department (~~(of wildlife)~~) shall have the following powers  
31 and duties in carrying out its responsibilities for the senior  
32 environmental corps created under RCW 43.63A.247:

- 33 Appoint a representative to the coordinating council;
- 34 Develop project proposals;
- 35 Administer project activities within the agency;
- 36 Develop appropriate procedures for the use of volunteers;
- 37 Provide project orientation, technical training, safety training,
- 38 equipment, and supplies to carry out project activities;



1 Maintain project records and provide project reports;  
2 Apply for and accept grants or contributions for corps approved  
3 projects; and

4 With the approval of the council, enter into memoranda of  
5 understanding and cooperative agreements with federal, state, and local  
6 agencies to carry out corps approved projects.

7 (2) The department shall not use corps volunteers to displace  
8 currently employed workers.

9 **Sec. 69.** RCW 77.16.060 and 1987 c 506 s 61 are each amended to  
10 read as follows:

11 It is unlawful to lay, set, or use a net or other device capable of  
12 taking game fish in the waters of this state except as authorized by  
13 the commission or director (~~(of fisheries)~~). Game fish taken  
14 incidental to a lawful season established by the director (~~(of~~  
15 ~~fisheries)~~) shall be returned immediately to the water.

16 A landing net may be used to land fish otherwise legally hooked.

17 **Sec. 70.** RCW 77.16.135 and 1991 c 211 s 1 are each amended to read  
18 as follows:

19 (1) The director shall revoke all licenses and privileges extended  
20 under Title 77 RCW of a person convicted of assault on a state wildlife  
21 agent or other law enforcement officer provided that:

22 (a) The wildlife agent or other law enforcement officer was on duty  
23 at the time of the assault; and

24 (b) The wildlife agent or other law enforcement officer was  
25 enforcing the provisions of Title 77 RCW.

26 (2) For the purposes of this section, the definition of assault  
27 includes:

28 (a) RCW 9A.32.030; murder in the first degree;

29 (b) RCW 9A.32.050; murder in the second degree;

30 (c) RCW 9A.32.060; manslaughter in the first degree;

31 (d) RCW 9A.32.070; manslaughter in the second degree;

32 (e) RCW 9A.36.011; assault in the first degree;

33 (f) RCW 9A.36.021; assault in the second degree; and

34 (g) RCW 9A.36.031; assault in the third degree.

35 (3) For the purposes of this section, a conviction includes:

36 (a) A determination of guilt by the court;

1 (b) The entering of a guilty plea to the charge or charges by the  
2 accused;

3 (c) A forfeiture of bail or a vacation of bail posted to the court;  
4 or

5 (d) The imposition of a deferred or suspended sentence by the  
6 court.

7 (4) No license described under Title 77 RCW shall be reissued to a  
8 person violating this section for a minimum of ten years, at ~~((that~~  
9 ~~[which]))~~ which time a person may petition the director ~~((of wildlife))~~  
10 for a reinstatement of his or her license or licenses. The ten-year  
11 period shall be tolled during any time the convicted person is  
12 incarcerated in any state or local correctional or penal institution,  
13 in community supervision, or home detention for an offense under this  
14 section. Upon review by the director, and if all provisions of the  
15 court that imposed sentencing have been completed, the director may  
16 reinstate in whole or in part the licenses and privileges under Title  
17 77 RCW.

18 **Sec. 71.** RCW 77.16.170 and 1988 c 36 s 51 are each amended to read  
19 as follows:

20 It is unlawful to take a wild animal from another person's trap  
21 without permission, or to spring, pull up, damage, possess, or destroy  
22 the trap; however, it is not unlawful for a property owner, lessee, or  
23 tenant to remove a trap placed on the owner's, lessee's, or tenant's  
24 property by a trapper.

25 Trappers shall attach to the chain of their traps or devices a  
26 legible metal tag with either the department ~~((of wildlife))~~  
27 identification number of the trapper or the name and address of the  
28 trapper in English letters not less than one-eighth inch in height.

29 When an individual presents a trapper identification number to the  
30 department ~~((of wildlife))~~ and requests identification of the trapper,  
31 the department ~~((of wildlife))~~ shall provide the individual with the  
32 name and address of the trapper. Prior to disclosure of the trapper's  
33 name and address, the department ~~((of wildlife))~~ shall obtain the name  
34 and address of the requesting individual in writing and after  
35 disclosing the trapper's name and address to the requesting individual,  
36 the requesting individual's name and address shall be disclosed in  
37 writing to the trapper whose name and address was disclosed.

1       **Sec. 72.** RCW 77.18.010 and 1991 c 253 s 2 are each amended to read  
2 as follows:

3       Unless the context clearly requires otherwise, the definitions in  
4 this section apply throughout this chapter.

5       (1) "Department" means the (~~Washington~~) department of fish and  
6 wildlife.

7       (2) "Contract" means an agreement setting at a minimum, price,  
8 quantity of fish to be delivered, time of delivery, and fish health  
9 requirements.

10       (3) "Fish health requirements" means those site specific fish  
11 health and genetic requirements actually used by the department of fish  
12 and wildlife in fish stocking.

13       (4) "Aquatic farmer" means a private sector person who commercially  
14 farms and manages private sector cultured aquatic products on the  
15 person's own land or on land in which the person has a present right of  
16 possession.

17       (5) "Person" means a natural person, corporation, trust, or other  
18 legal entity.

19       **Sec. 73.** RCW 77.32.380 and 1991 sp.s. c 7 s 12 are each amended to  
20 read as follows:

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

26       The spouse, all children under eighteen years of age, and guests  
27 under eighteen years of age of the holder of a valid conservation  
28 license may use department lands and access facilities when accompanied  
29 by the license holder.

30       Youth groups may use department lands and game access facilities  
31 without possessing a conservation license when accompanied by a license  
32 holder.

33       The conservation license is nontransferable and must be validated  
34 by the signature of the holder. Upon request of a wildlife agent or ex  
35 officio wildlife agent a person using clearly identified department  
36 (~~of wildlife~~) lands shall exhibit the required license.

1        NEW SECTION.    **Sec. 74.**    Sections 1 through 8 of this act shall  
2 constitute a new chapter in Title 43 RCW.

3        NEW SECTION.    **Sec. 75.**    The house of representatives standing  
4 committee on fisheries and wildlife and the senate standing committee  
5 on natural resources shall conduct an interim study on the role that  
6 the wildlife commission should play in the new department of fish and  
7 wildlife. The committees shall jointly hold public hearings to receive  
8 input on whether the wildlife commission should remain unchanged, or  
9 whether it should be replaced, expanded, or reorganized. The  
10 committees shall also receive input from the affected parties on how  
11 the public can best communicate to the new department of fish and  
12 wildlife on issues relating to the management of fish and wildlife  
13 resources. The committees shall make joint recommendations to the  
14 legislature by January 1, 1994.

15        NEW SECTION.    **Sec. 76.**    Sections 1 through 8 and 10 through 74 of  
16 this act shall take effect July 1, 1994.

17        NEW SECTION.    **Sec. 77.**    If any provision of this act or its  
18 application to any person or circumstance is held invalid, the  
19 remainder of the act or the application of the provision to other  
20 persons or circumstances is not affected.

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