
SENATE BILL 5199

State of Washington

53rd Legislature

1993 Regular Session

By Senators L. Smith, Hargrove and Roach

Read first time 01/15/93. Referred to Committee on Natural Resources.

1 AN ACT Relating to fisheries patrol officers and wildlife agents;
2 amending RCW 4.24.350, 10.93.020, 46.09.200, 46.10.200, 69.30.110,
3 69.30.120, 70.93.050, 75.08.160, 75.10.020, 75.10.030, 75.10.040,
4 75.10.160, 75.25.140, 75.25.170, 76.04.045, 76.48.040, 77.08.010,
5 77.12.055, 77.12.060, 77.12.620, 77.16.610, 77.32.250, 77.32.380, and
6 88.12.330; reenacting and amending RCW 75.08.011; adding new sections
7 to chapter 43.43 RCW; adding a new section to Title 75 RCW; adding a
8 new section to Title 77 RCW; creating new sections; repealing RCW
9 75.08.206, 75.08.208, and 75.10.010; and providing an effective date.

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

11 NEW SECTION. **Sec. 1.** The legislature finds that a consolidation
12 of fisheries patrol officers and wildlife agents into the Washington
13 state patrol would be beneficial to the fish and wildlife resources,
14 the public, and the individual enforcement officers. Many
15 opportunities to improve enforcement of fish and wildlife laws will
16 result from consolidation. The public will benefit from improved
17 resource protection and from increased efficiency. The officers will
18 benefit from improved morale, increased compensation, greater
19 advancement opportunity, improved equipment, and increased training.

1 The goal of chapter . . . , Laws of 1993 (this act) is a
2 consolidated fish and wildlife enforcement division that will function
3 as a well equipped and highly professional unit, that will produce
4 increased public support, and be an important part of the Washington
5 state patrol.

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

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

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

24 All personnel engaged in the enforcement of this title and the
25 rules adopted under this title shall be employed, supervised, and
26 controlled by the chief of the state patrol, who shall be the sole
27 official charged with enforcement of this title.

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

30 All personnel engaged in the enforcement of this title and the
31 rules adopted under this title shall be employed, supervised, and
32 controlled by the chief of the state patrol, who shall be the sole
33 official charged with enforcement of this title.

1 NEW SECTION. **Sec. 6.** Employees of the department of fisheries and
2 the department of wildlife transferred to the state patrol shall have
3 the option to retain membership in the retirement system in which they
4 were members prior to the transfer, or to become members of the state
5 patrol retirement system upon being commissioned.

6 NEW SECTION. **Sec. 7.** All powers, duties, and functions of the
7 departments of fisheries and wildlife pertaining to enforcement of
8 Titles 75 and 77 RCW are transferred to the Washington state patrol.
9 All references to the director or the department of fisheries or
10 department of wildlife in the Revised Code of Washington shall be
11 construed to mean the chief of the state patrol or the state patrol
12 when referring to the functions transferred in this section.

13 NEW SECTION. **Sec. 8.** All reports, documents, surveys, books,
14 records, files, papers, or written material in the possession of the
15 departments of fisheries and wildlife pertaining to the powers,
16 functions, and duties transferred shall be delivered to the custody of
17 the Washington state patrol. All cabinets, furniture, office equipment,
18 motor vehicles, and other tangible property employed by the departments
19 of fisheries and wildlife in carrying out the powers, functions, and
20 duties transferred shall be made available to the Washington state
21 patrol. All funds, credits, or other assets held in connection with
22 the powers, functions, and duties transferred shall be assigned to the
23 Washington state patrol.

24 Any appropriations made to the departments of fisheries and
25 wildlife for carrying out the powers, functions, and duties transferred
26 shall, on the effective date of this section, be transferred and
27 credited to the Washington state patrol.

28 Whenever any question arises as to the transfer of any personnel,
29 funds, books, documents, records, papers, files, equipment, or other
30 tangible property used or held in the exercise of the powers and the
31 performance of the duties and functions transferred, the director of
32 financial management shall make a determination as to the proper
33 allocation and certify the same to the state agencies concerned.

34 NEW SECTION. **Sec. 9.** All employees of the departments of
35 fisheries and wildlife engaged in performing the powers, functions, and
36 duties transferred are transferred to the jurisdiction of the

1 Washington state patrol. All employees classified under chapter 41.06
2 RCW, the state civil service law, are assigned to the Washington state
3 patrol to perform their usual duties upon the same terms as formerly,
4 without any loss of rights, subject to any action that may be
5 appropriate thereafter in accordance with the laws and rules governing
6 state civil service.

7 NEW SECTION. **Sec. 10.** All rules and all pending business before
8 the departments of fisheries and wildlife pertaining to the powers,
9 functions, and duties transferred shall be continued and acted upon by
10 the Washington state patrol. All existing contracts and obligations
11 shall remain in full force and shall be performed by the Washington
12 state patrol.

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

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

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

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

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

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

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

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

21 (4) As used in this section:

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

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

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

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

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

35 (1) "General authority Washington law enforcement agency" means any
36 agency, department, or division of a municipal corporation, political
37 subdivision, or other unit of local government of this state, and any
38 agency, department, or division of state government, having as its

1 primary function the detection and apprehension of persons committing
2 infractions or violating the traffic or criminal laws in general, as
3 distinguished from a limited authority Washington law enforcement
4 agency, and any other unit of government expressly designated by
5 statute as a general authority Washington law enforcement agency. The
6 Washington state patrol is a general authority Washington law
7 enforcement agency.

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

19 (3) "General authority Washington peace officer" means any full-
20 time, fully compensated and elected, appointed, or employed officer of
21 a general authority Washington law enforcement agency who is
22 commissioned to enforce the criminal laws of the state of Washington
23 generally.

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

31 (5) "Specially commissioned Washington peace officer", for the
32 purposes of this chapter, means any officer, whether part-time or full-
33 time, compensated or not, commissioned by a general authority
34 Washington law enforcement agency to enforce some or all of the
35 criminal laws of the state of Washington, who does not qualify under
36 this chapter as a general authority Washington peace officer for that
37 commissioning agency, specifically including reserve peace officers,
38 and specially commissioned full-time, fully compensated peace officers
39 duly commissioned by the states of Oregon or Idaho or any such peace

1 officer commissioned by a unit of local government of Oregon or Idaho.
2 A reserve peace officer is an individual who is an officer of a
3 Washington law enforcement agency who does not serve such agency on a
4 full-time basis but who, when called by the agency into active service,
5 is fully commissioned on the same basis as full-time peace officers to
6 enforce the criminal laws of the state.

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

11 (7) "Agency with primary territorial jurisdiction" means a city or
12 town police agency which has responsibility for police activity within
13 its boundaries; or a county police or sheriff's department which has
14 responsibility with regard to police activity in the unincorporated
15 areas within the county boundaries; or a statutorily authorized port
16 district police agency or four-year state college or university police
17 agency which has responsibility for police activity within the
18 statutorily authorized enforcement boundaries of the port district,
19 state college, or university.

20 (8) "Primary commissioning agency" means (a) the employing agency
21 in the case of a general authority Washington peace officer, a limited
22 authority Washington peace officer, an Indian tribal peace officer, or
23 a federal peace officer, and (b) the commissioning agency in the case
24 of a specially commissioned Washington peace officer (i) who is
25 performing functions within the course and scope of the special
26 commission and (ii) who is not also a general authority Washington
27 peace officer, a limited authority Washington peace officer, an Indian
28 tribal peace officer, or a federal peace officer.

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

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

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

37 The provisions of this chapter shall be enforced by all persons
38 having the authority to enforce any of the laws of this state,

1 including, without limitation, officers of the state patrol, county
2 sheriffs and their deputies, all municipal law enforcement officers
3 within their respective jurisdictions, (~~state wildlife agents and~~
4 ~~deputy wildlife agents,~~) state park rangers, (~~state fisheries~~
5 ~~patrolmen,~~) and those employees of the department of natural resources
6 designated by the commissioner of public lands under RCW 43.30.310,
7 76.04.035, and 76.04.045.

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

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

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

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

31 Failure of a shellfish processor to display a certificate of
32 approval issued under RCW 69.30.060 to an authorized representative of
33 the department(~~(, a fisheries patrol officer, or an ex officio~~
34 ~~fisheries))~~ or a Washington state patrol officer subjects the processor
35 to the penalty provisions of this chapter, as well as immediate seizure
36 of the shellfish by the representative or officer.

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

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

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

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

19 The (~~director shall designate trained employees of the department~~
20 ~~to be vested with police powers to~~) chief of the Washington state
21 patrol shall enforce and administer the provisions of this chapter and
22 all rules (~~and regulations~~) adopted (~~thereunder~~) under this
23 chapter. The (~~director~~) chief of the Washington state patrol shall
24 also have authority to contract with other state and local governmental
25 agencies having law enforcement capabilities for services and personnel
26 reasonably necessary to carry out the enforcement provisions of this
27 chapter. (~~In addition, state patrol officers, wildlife agents, fire~~
28 ~~wardens, deputy fire wardens and forest rangers, sheriffs and marshals~~
29 ~~and their deputies, and police officers, and those employees of the~~
30 ~~department of ecology and the parks and recreation commission vested~~
31 ~~with police powers all shall enforce the provisions of this chapter and~~
32 ~~all rules and regulations adopted thereunder and are hereby empowered~~
33 ~~to issue citations to and/or arrest without warrant, persons violating~~
34 ~~any provision of this chapter or any of the rules and regulations~~
35 ~~adopted hereunder. All of the foregoing enforcement officers may serve~~
36 ~~and execute all warrants, citations, and other process issued by the~~
37 ~~courts in enforcing the provisions of this chapter and rules and~~

1 regulations adopted hereunder. In addition, mailing by registered mail
2 of such warrant, citation, or other process to his last known place of
3 residence shall be deemed as personal service upon the person
4 charged.))

5 **Sec. 21.** 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.

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

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

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

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

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

30 ~~((7)) (5) "State waters" means all marine waters and fresh waters~~
31 ~~within ordinary high water lines and within the territorial boundaries~~
32 ~~of the state.~~

33 ~~((8)) (6) "Offshore waters" means marine waters of the Pacific~~
34 ~~Ocean outside the territorial boundaries of the state, including the~~
35 ~~marine waters of other states and countries.~~

36 ~~((9)) (7) "Concurrent waters of the Columbia river" means those~~
37 ~~waters of the Columbia river that coincide with the Washington-Oregon~~
38 ~~state boundary.~~

1 (~~(10)~~) (8) "Resident" means a person who has for the preceding
2 ninety days maintained a permanent abode within the state, has
3 established by formal evidence an intent to continue residing within
4 the state, and is not licensed to fish as a resident in another state.

5 (~~(11)~~) (9) "Nonresident" means a person who has not fulfilled the
6 qualifications of a resident.

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

12 (~~(13)~~) (11) "Shellfish" means those species of marine and
13 freshwater invertebrates that shall not be taken except as authorized
14 by rule of the director. The term "shellfish" includes all stages of
15 development and the bodily parts of shellfish species.

16 (~~(14)~~) (12) "Salmon" means all species of the genus *Oncorhynchus*,
17 except those classified as game fish in Title 77 RCW, and includes:

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

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

29 (~~(16)~~) (14) "To process" and its derivatives mean preparing or
30 preserving food fish or shellfish.

31 (~~(17)~~) (15) "Personal use" means for the private use of the
32 individual taking the food fish or shellfish and not for sale or
33 barter.

34 (~~(18)~~) (16) "Angling gear" means a line attached to a rod and
35 reel capable of being held in hand while landing the fish or a hand-
36 held line operated without rod or reel to which are attached no more
37 than two single hooks or one artificial bait with no more than (~~four~~)
38 two multiple hooks.

1 ((+19+)) (17) "Open season" means those times, manners of taking,
2 and places or waters established by rule of the director for the lawful
3 fishing, taking, or possession of food fish or shellfish. "Open
4 season" includes the first and last days of the established time.

5 ((+20+)) (18) "Emerging commercial fishery" means any commercial
6 fishery:

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

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

15 ((+21+)) (19) "Experimental fishery permit" means a permit issued
16 by the director to allow the recipient to engage in an emerging
17 commercial fishery.

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

20 The director, (~~(fisheries patrol officers, ex officio fisheries~~
21 ~~patrol officers, and)~~) department employees, and Washington state
22 patrol officers may enter upon any land or waters and remain there
23 while performing their duties without liability for trespass.

24 It is lawful for aircraft operated by the department or by the
25 Washington state patrol to land and take off from the beaches or waters
26 of the state. It is unlawful for a person to interfere with the
27 operation of these aircraft.

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

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

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

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

7 (1) (~~(Fisheries patrol officers and ex officio fisheries)~~)
8 Washington state patrol officers may seize without warrant food fish or
9 shellfish they have reason to believe have been taken, killed,
10 transported, or possessed in violation of this title or rule of the
11 director and may seize without warrant boats, vehicles, gear,
12 appliances, or other articles they have reason to believe (~~(is {are})~~)
13 are held with intent to violate or (~~(has {have})~~) have been used in
14 violation of this title or rule of the director. The articles seized
15 shall be subject to forfeiture to the state, regardless of ownership.
16 Articles seized may be recovered by their owner by depositing into
17 court a cash bond equal to the value of the seized articles but not
18 more than twenty-five thousand dollars. The cash bond is subject to
19 forfeiture to the state in lieu of the seized article.

20 (2)(a) In the event of a seizure of an article under subsection (1)
21 of this section, proceedings for forfeiture shall be deemed commenced
22 by the seizure. Within fifteen days following the seizure, the seizing
23 authority shall serve notice on the owner of the property seized and on
24 any person having any known right or interest in the property seized.
25 Notice may be served by any method authorized by law or court rule,
26 including service by certified mail with return receipt requested.
27 Service by mail shall be deemed complete upon mailing within the
28 fifteen-day period following the seizure.

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

33 (c) If any person notifies the department in writing within forty-
34 five days of the seizure, the person shall be afforded an opportunity
35 to be heard as to the claim or right. The hearing shall be before the
36 director or the director's designee, or before an administrative law
37 judge appointed under chapter 34.12 RCW, except that a person asserting
38 a claim or right may remove the matter to a court of competent

1 jurisdiction if the aggregate value of the articles seized is more than
2 five thousand dollars. The department hearing and any subsequent
3 appeal shall be as provided for in Title 34 RCW. The burden of
4 producing evidence shall be upon the person claiming to be the lawful
5 owner or person claiming lawful right of possession of the articles
6 seized. The department shall promptly return the seized articles to
7 the claimant upon a determination by the director or the director's
8 designee, an administrative law judge, or a court that the claimant is
9 the present lawful owner or is lawfully entitled to possession of the
10 articles seized, and that the seized articles were improperly seized.

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

15 (ii) A forfeiture of a conveyance encumbered by a perfected
16 security interest is subject to the interest of the secured party if
17 the secured party neither had knowledge nor consented to the act or
18 omission.

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

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

27 (1) (~~(Fisheries patrol officers and ex officio fisheries)~~)
28 Washington state patrol officers may serve and execute warrants and
29 processes issued by the courts to enforce this title and rules of the
30 director.

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

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

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

3 (~~(Fisheries)~~) Washington state patrol officers are authorized to
4 enforce all provisions of chapter 88.02 RCW and any rules adopted
5 thereunder, and the provisions of RCW 43.51.400 and any rules adopted
6 thereunder.

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

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

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

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

22 Fees received for recreational licenses required under this chapter
23 shall be deposited in the general fund and shall be appropriated for
24 (1) management, enhancement, and research(~~(, and enforcement)~~) purposes
25 of the shellfish, salmon, and marine fish programs of the department of
26 fisheries and (2) enforcement purposes of the Washington state patrol
27 regarding department of fisheries programs.

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

30 (1) All Washington state patrol officers, (~~(wildlife agents,~~
31 ~~fisheries patrol officers,~~) deputy state fire marshals, and state park
32 rangers, while in their respective jurisdictions, shall be ex officio
33 rangers.

34 (2) Employees of the United States forest service, when recommended
35 by their forest supervisor, and citizens of the state advantageously
36 located may, at the discretion of the department, be commissioned as

1 rangers and vested with the certain powers and duties of wardens as
2 specified in this chapter and as directed by the department.

3 (3) Rangers shall receive no compensation for their services except
4 when employed in cooperation with the state and under the provisions of
5 this chapter and shall not create any indebtedness or incur any
6 liability on behalf of the state: PROVIDED, That rangers actually
7 engaged in extinguishing or preventing the spread of fire on forest
8 land or elsewhere that may endanger forest land shall, when their
9 accounts for such service have been approved by the department, be
10 entitled to receive compensation for such services at a rate to be
11 fixed by the department.

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

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

17 Agencies charged with the enforcement of this chapter shall
18 include, but not be limited to, the Washington state patrol, county
19 sheriffs and their deputies, county or municipal police forces,
20 authorized personnel of the United States forest service, and
21 authorized personnel of the department(~~(s)~~) of natural resources(~~(-
22 fisheries, and wildlife)~~). Primary enforcement responsibility lies in
23 the county sheriffs and their deputies.

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

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

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

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

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

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

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

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

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

13 ~~((8))~~ (6) "To trap" and its derivatives means a method of hunting
14 using devices to capture wild animals or wild birds.

15 ~~((9))~~ (7) "To fish" and its derivatives means an effort to kill,
16 injure, harass, or catch a game fish.

17 ~~((10))~~ (8) "Open season" means those times, manners of taking,
18 and places or waters established by rule of the commission for the
19 lawful hunting, fishing, or possession of game animals, game birds, or
20 game fish. "Open season" includes the first and last days of the
21 established time.

22 ~~((11))~~ (9) "Closed season" means all times, manners of taking,
23 and places or waters other than those established as an open season.

24 ~~((12))~~ (10) "Closed area" means a place where the hunting of some
25 species of wild animals or wild birds is prohibited.

26 ~~((13))~~ (11) "Closed waters" means all or part of a lake, river,
27 stream, or other body of water, where fishing for game fish is
28 prohibited.

29 ~~((14))~~ (12) "Game reserve" means a closed area where hunting for
30 all wild animals and wild birds is prohibited.

31 ~~((15))~~ (13) "Bag limit" means the maximum number of game animals,
32 game birds, or game fish which may be taken, caught, killed, or
33 possessed by a person, as specified by rule of the commission for a
34 particular period of time, or as to size, sex, or species.

35 ~~((16))~~ (14) "Wildlife" means all species of the animal kingdom
36 whose members exist in Washington in a wild state. This includes but
37 is not limited to mammals, birds, reptiles, amphibians, fish, and
38 invertebrates. The term "wildlife" does not include feral domestic
39 mammals, the family Muridae of the order Rodentia (old world rats and

1 mice), or those fish, shellfish, and marine invertebrates classified by
2 the director of fisheries. The term "wildlife" includes all stages of
3 development and the bodily parts of wildlife members.

4 ~~((17))~~ (15) "Wild animals" means those species of the class
5 Mammalia whose members exist in Washington in a wild state and the
6 species *Rana catesbeiana* (bullfrog). The term "wild animal" does not
7 include feral domestic mammals or the family Muridae of the order
8 Rodentia (old world rats and mice).

9 ~~((18))~~ (16) "Wild birds" means those species of the class Aves
10 whose members exist in Washington in a wild state.

11 ~~((19))~~ (17) "Protected wildlife" means wildlife designated by the
12 commission that shall not be hunted or fished.

13 ~~((20))~~ (18) "Endangered species" means wildlife designated by the
14 commission as seriously threatened with extinction.

15 ~~((21))~~ (19) "Game animals" means wild animals that shall not be
16 hunted except as authorized by the commission.

17 ~~((22))~~ (20) "Fur-bearing animals" means game animals that shall
18 not be trapped except as authorized by the commission.

19 ~~((23))~~ (21) "Game birds" means wild birds that shall not be
20 hunted except as authorized by the commission.

21 ~~((24))~~ (22) "Predatory birds" means wild birds that may be hunted
22 throughout the year as authorized by the commission.

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

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

29 ~~((27))~~ (25) "Person of disability" means a permanently disabled
30 person who is not ambulatory without the assistance of a wheelchair,
31 crutches, or similar devices.

32 **Sec. 32.** 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~~
36 ~~officio wildlife agents))~~ Washington state patrol is limited to the
37 laws and rules adopted pursuant to this title pertaining to wildlife or
38 to the management, operation, maintenance, or use of or conduct on real

1 property used, owned, leased, or controlled by the department and other
2 statutes as prescribed by the legislature. ((However, when acting
3 within the scope of these duties and when an offense occurs in the
4 presence of the wildlife agent who is not an ex officio wildlife agent,
5 the wildlife agent may enforce all criminal laws of the state. The
6 wildlife agent must have successfully completed the basic law
7 enforcement academy course sponsored by the criminal justice training
8 commission, or a supplemental course in criminal law enforcement as
9 approved by the department and the criminal justice training commission
10 and provided by the department or the criminal justice training
11 commission, prior to enforcing the criminal laws of the state.

12 (2) Wildlife agents are peace officers.

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

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

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

23 The ((director, wildlife agents, and ex officio wildlife agents))
24 chief of the Washington state patrol and Washington state patrol
25 officers may serve and execute warrants and process issued by the
26 courts to enforce the law and rules adopted pursuant to this title.

27 To enforce these laws or rules, they may call to their aid any
28 ((ex officio wildlife agent or)) citizen and that person shall render
29 aid.

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

32 The ((department)) chief of the Washington state patrol is
33 authorized to require hunters and ((fishermen)) fishers occupying a
34 motor vehicle approaching or entering a check station to stop and
35 produce for inspection: (1) Any wildlife in their possession; (2)
36 licenses, permits, tags, stamps, or punchcards required under Title 77
37 RCW, or rules adopted thereunder. For these purposes, the department

1 is authorized to operate check stations which shall be plainly marked
2 by signs, operated by at least one (~~((uniformed wildlife agent))~~)
3 Washington state patrol officer, and operated in a safe manner.

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

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

8 (1) Obey check station signs;

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

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

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

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

21 Upon request of a (~~((wildlife agent or ex officio wildlife agent))~~)
22 Washington state patrol officer, persons licensed, operating under a
23 permit, or possessing wildlife under the authority of this chapter
24 shall produce required licenses, permits, tags, stamps, or punchcards
25 for inspection and write their signatures for comparison and in
26 addition display their wildlife. Failure to comply with the request is
27 prima facie evidence that the person has no license or is not the
28 person named.

29 **Sec. 37.** RCW 77.32.380 and 1991 sp.s. c 7 s 12 are each amended to
30 read as follows:

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

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

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

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

13 **Sec. 38.** RCW 88.12.330 and 1988 c 36 s 73 are each amended to read
14 as follows:

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

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

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

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

32 (1) RCW 75.08.206 and 1983 1st ex.s. c 46 s 20, 1971 ex.s. c 289 s
33 73, & 1953 c 207 s 14;

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

36 (3) RCW 75.10.010 and 1985 c 155 s 1, 1983 1st ex.s. c 46 s 32,
37 1980 c 78 s 133, & 1955 c 12 s 75.08.150.

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

3 NEW SECTION. **Sec. 41.** This act shall take effect December 31,
4 1993.

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