

CERTIFICATION OF ENROLLMENT

SENATE BILL 6074

Chapter 2, Laws of 1995

54th Legislature
1995 First Special Session

FISH AND WILDLIFE COMMISSION POWERS AND DUTIES

EFFECTIVE DATE: 7/1/96 if approved. Note: Sections 2 through 43 are identified as Referendum Bill No. 45 and will be voted upon at the November 7, 1995 General Election

Passed by the Senate May 17, 1995
YEAS 30 NAYS 14

JOEL PRITCHARD

President of the Senate

Passed by the House May 23, 1995
YEAS 73 NAYS 24

CLYDE BALLARD

**Speaker of the
House of Representatives**

CERTIFICATE

I, Marty Brown, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 6074** as passed by the Senate and the House of Representatives on the dates hereon set forth.

MARTY BROWN

Secretary

FILED

May 24, 1995 - 10:00 a.m.

**Secretary of State
State of Washington**

SENATE BILL 6074

Passed Legislature - 1995 First Special Session

State of Washington 54th Legislature 1995 1st Special Session

By Senators Sutherland and Rasmussen

Read first time 05/01/95. Referred to Committee on Natural Resources.

1 AN ACT Relating to the role of the state commission on fish and
2 wildlife as recommended by the commission on fish and wildlife;
3 amending RCW 77.04.040, 77.04.055, 77.04.080, 75.08.011, 75.08.025,
4 75.08.055, 75.08.058, 75.08.070, 75.08.080, 75.08.090, 75.08.110,
5 75.08.120, 75.08.274, 75.08.285, 75.08.295, 75.08.460, 75.40.020,
6 75.40.040, 75.40.060, 75.08.014, 75.08.040, 75.08.045, 75.12.010,
7 75.12.015, 75.20.110, 75.24.030, 75.24.100, 75.24.130, 75.25.095,
8 75.30.060, 75.50.010, 75.50.020, 75.50.030, 75.50.040, 75.50.050,
9 75.50.070, 75.50.110, 75.50.130, 75.52.050, and 77.16.135; reenacting
10 and amending RCW 43.17.020 and 75.50.100; creating new sections;
11 providing an effective date; and providing for submission of this act
12 to a vote of the people.

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

14 NEW SECTION. **Sec. 1.** The legislature supports the recommendations
15 of the state fish and wildlife commission with regard to the
16 commission's responsibilities in the merged department of fish and
17 wildlife. It is the intent of the legislature that, beginning July 1,
18 1996, the commission assume regulatory authority for food fish and
19 shellfish in addition to its existing authority for game fish and

1 wildlife. It is also the intent of the legislature to provide to the
2 commission the authority to review and approve department agreements,
3 to review and approve the department's budget proposals, to adopt rules
4 for the department, and to select commission staff and the director of
5 the department.

6 The legislature finds that all fish, shellfish, and wildlife
7 species should be managed under a single comprehensive set of goals,
8 policies, and objectives, and that the decision-making authority should
9 rest with the fish and wildlife commission. The commission acts in an
10 open and deliberative process that encourages public involvement and
11 increases public confidence in department decision-making.

12 **Sec. 2.** RCW 43.17.020 and 1993 sp.s. c 2 s 17, 1993 c 472 s 18,
13 and 1993 c 280 s 19 are each reenacted and amended to read as follows:

14 There shall be a chief executive officer of each department to be
15 known as: (1) The secretary of social and health services, (2) the
16 director of ecology, (3) the director of labor and industries, (4) the
17 director of agriculture, (5) the director of fish and wildlife, (6) the
18 secretary of transportation, (7) the director of licensing, (8) the
19 director of general administration, (9) the director of community,
20 trade, and economic development, (10) the director of veterans affairs,
21 (11) the director of revenue, (12) the director of retirement systems,
22 (13) the secretary of corrections, and (14) the secretary of health,
23 and (15) the director of financial institutions.

24 Such officers, except the secretary of transportation and the
25 director of fish and wildlife, shall be appointed by the governor, with
26 the consent of the senate, and hold office at the pleasure of the
27 governor. The secretary of transportation shall be appointed by the
28 transportation commission as prescribed by RCW 47.01.041. The director
29 of fish and wildlife shall be appointed by the fish and wildlife
30 commission as prescribed by RCW 77.04.055.

31 **Sec. 3.** RCW 77.04.040 and 1993 sp.s. c 2 s 61 are each amended to
32 read as follows:

33 Persons eligible for appointment as members of the commission shall
34 have general knowledge of the habits and distribution of ((game)) fish
35 and wildlife and shall not hold another state, county, or municipal
36 elective or appointive office. In making these appointments, the
37 governor shall seek to maintain a balance reflecting all aspects of

1 ~~((game))~~ fish and wildlife, including representation recommended by
2 organized groups representing sportfishers, commercial fishers,
3 hunters, private landowners, and environmentalists. Persons eligible
4 for appointment as fish and wildlife commissioners shall ~~((not have a~~
5 ~~monetary interest in any private business that is involved with~~
6 ~~consumptive or nonconsumptive use of game fish or wildlife))~~ comply
7 with the provisions of chapters 42.52 and 42.17 RCW.

8 **Sec. 4.** RCW 77.04.055 and 1993 sp.s. c 2 s 62 are each amended to
9 read as follows:

10 (1) In establishing policies to preserve, protect, and perpetuate
11 wildlife, ~~((game))~~ fish, and wildlife and ~~((game))~~ fish habitat, the
12 commission shall meet annually with the governor to:

13 (a) Review and prescribe basic goals and objectives related to
14 those policies; and

15 (b) Review the performance of the department in implementing
16 ~~((game))~~ fish and wildlife policies.

17 The commission shall maximize ~~((game fish))~~ fishing, hunting, and
18 outdoor recreational opportunities compatible with healthy and diverse
19 fish and wildlife populations.

20 (2) The commission shall establish hunting, trapping, and fishing
21 seasons and prescribe the time, place, manner, and methods that may be
22 used to harvest or enjoy game fish and wildlife.

23 (3) The commission shall establish provisions regulating food fish
24 and shellfish as provided in RCW 75.08.080.

25 (4) The commission shall have final approval authority for tribal,
26 interstate, international, and any other department agreements relating
27 to fish and wildlife.

28 (5) The commission shall adopt rules to implement the state's fish
29 and wildlife laws.

30 (6) The commission shall have final approval authority for the
31 department's budget proposals.

32 (7) The commission shall select its own staff and shall appoint the
33 director of the department. The director and commission staff shall
34 serve at the pleasure of the commission.

35 **Sec. 5.** RCW 77.04.080 and 1993 sp.s. c 2 s 64 are each amended to
36 read as follows:

1 Persons eligible for appointment (~~((by the governor))~~) as director
2 shall have practical knowledge of the habits and distribution of fish
3 and wildlife. (~~((The governor shall seek recommendations from the
4 commission on the qualifications, skills, and experience necessary to
5 discharge the duties of the position. When considering and selecting
6 the director, the governor shall consult with and be advised by the
7 commission.))~~) The director shall receive the salary fixed by the
8 governor under RCW 43.03.040.

9 The director is the ex officio secretary of the commission and
10 shall attend its meetings and keep a record of its business.

11 The director may appoint and employ necessary departmental
12 personnel. The director may delegate to department personnel the
13 duties and powers necessary for efficient operation and administration
14 of the department. (~~((The department shall provide staff for the
15 commission.))~~)

16 **Sec. 6.** RCW 75.08.011 and 1994 c 255 s 2 are each amended to read
17 as follows:

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

20 (1) "Commission" means the fish and wildlife commission.

21 (2) "Director" means the director of fish and wildlife.

22 ~~((+2))~~ (3) "Department" means the department of fish and wildlife.

23 ~~((+3))~~ (4) "Person" means an individual or a public or private
24 entity or organization. The term "person" includes local, state, and
25 federal government agencies, and all business organizations, including
26 corporations and partnerships.

27 ~~((+4))~~ (5) "Fisheries patrol officer" means a person appointed and
28 commissioned by the (~~((director))~~) commission, with authority to enforce
29 this title, rules of the director, and other statutes as prescribed by
30 the legislature. Fisheries patrol officers are peace officers.

31 ~~((+5))~~ (6) "Ex officio fisheries patrol officer" means a
32 commissioned officer of a municipal, county, state, or federal agency
33 having as its primary function the enforcement of criminal laws in
34 general, while the officer is in the appropriate jurisdiction. The
35 term "ex officio fisheries patrol officer" also includes wildlife
36 agents, special agents of the national marine fisheries service, United
37 States fish and wildlife special agents, state parks commissioned
38 officers, department of natural resources enforcement officers, and

1 United States forest service officers, while the agents and officers
2 are within their respective jurisdictions.

3 ~~((+6+))~~ (7) "To fish," "to harvest," and "to take" and their
4 derivatives mean an effort to kill, injure, harass, or catch food fish
5 or shellfish.

6 ~~((+7+))~~ (8) "State waters" means all marine waters and fresh waters
7 within ordinary high water lines and within the territorial boundaries
8 of the state.

9 ~~((+8+))~~ (9) "Offshore waters" means marine waters of the Pacific
10 Ocean outside the territorial boundaries of the state, including the
11 marine waters of other states and countries.

12 ~~((+9+))~~ (10) "Concurrent waters of the Columbia river" means those
13 waters of the Columbia river that coincide with the Washington-Oregon
14 state boundary.

15 ~~((+10+))~~ (11) "Resident" means a person who has maintained a
16 permanent place of abode within the state for at least ninety days
17 immediately preceding an application for a license, has established by
18 formal evidence an intent to continue residing within the state, and
19 who is not licensed to hunt or fish as a resident in another state.

20 ~~((+11+))~~ (12) "Nonresident" means a person who has not fulfilled
21 the qualifications of a resident.

22 ~~((+12+))~~ (13) "Food fish" means those species of the classes
23 Osteichthyes, Agnatha, and Chondrichthyes that have been classified and
24 that shall not be fished for except as authorized by rule of the
25 ~~((director))~~ commission. The term "food fish" includes all stages of
26 development and the bodily parts of food fish species.

27 ~~((+13+))~~ (14) "Shellfish" means those species of marine and
28 freshwater invertebrates that have been classified and that shall not
29 be taken except as authorized by rule of the ~~((director))~~ commission.
30 The term "shellfish" includes all stages of development and the bodily
31 parts of shellfish species.

32 ~~((+14+))~~ (15) "Salmon" means all species of the genus *Oncorhynchus*,
33 except those classified as game fish in Title 77 RCW, and includes:

1	Scientific Name	Common Name
2	Oncorhynchus tshawytscha	Chinook salmon
3	Oncorhynchus kisutch	Coho salmon
4	Oncorhynchus keta	Chum salmon
5	Oncorhynchus gorbuscha	Pink salmon
6	Oncorhynchus nerka	Sockeye salmon

7 (~~(15)~~) (16) "Commercial" means related to or connected with
8 buying, selling, or bartering. Fishing for food fish or shellfish with
9 gear unlawful for fishing for personal use, or possessing food fish or
10 shellfish in excess of the limits permitted for personal use are
11 commercial activities.

12 (~~(16)~~) (17) "To process" and its derivatives mean preparing or
13 preserving food fish or shellfish.

14 (~~(17)~~) (18) "Personal use" means for the private use of the
15 individual taking the food fish or shellfish and not for sale or
16 barter.

17 (~~(18)~~) (19) "Angling gear" means a line attached to a rod and
18 reel capable of being held in hand while landing the fish or a hand-
19 held line operated without rod or reel.

20 (~~(19)~~) (20) "Open season" means those times, manners of taking,
21 and places or waters established by rule of the (~~director~~) commission
22 for the lawful fishing, taking, or possession of food fish or
23 shellfish. "Open season" includes the first and last days of the
24 established time.

25 (~~(20)~~) (21) "Fishery" means the taking of one or more particular
26 species of food fish or shellfish with particular gear in a particular
27 geographical area.

28 (~~(21)~~) (22) "Limited-entry license" means a license subject to a
29 license limitation program established in chapter 75.30 RCW.

30 (~~(22)~~) (23) "Seaweed" means marine aquatic plant species that are
31 dependent upon the marine aquatic or tidal environment, and exist in
32 either an attached or free floating form, and includes but is not
33 limited to marine aquatic plants in the classes Chlorophyta,
34 Phaeophyta, and Rhodophyta.

35 **Sec. 7.** RCW 75.08.025 and 1983 1st ex.s. c 46 s 8 are each amended
36 to read as follows:

1 The ((~~director~~)) commission may negotiate agreements with the
2 United States department of defense to coordinate fishing in state
3 waters over which the department of defense has assumed control.

4 **Sec. 8.** RCW 75.08.055 and 1993 sp.s. c 2 s 23 are each amended to
5 read as follows:

6 (1) The ((~~director~~)) commission may enter into agreements with and
7 receive funds from the United States for the construction, maintenance,
8 and operation of fish cultural stations, laboratories, and devices in
9 the Columbia River basin for improvement of feeding and spawning
10 conditions for fish, for the protection of migratory fish from
11 irrigation projects and for facilitating free migration of fish over
12 obstructions.

13 (2) The ((~~director~~)) commission and the department may acquire by
14 gift, purchase, lease, easement, or condemnation the use of lands where
15 the construction or improvement is to be carried on by the United
16 States.

17 **Sec. 9.** RCW 75.08.058 and 1993 sp.s. c 2 s 99 are each amended to
18 read as follows:

19 The ((~~department~~)) commission may adopt rules pertaining to harvest
20 of fish and wildlife in the federal exclusive economic zone by vessels
21 or individuals registered or licensed under the laws of this state.

22 **Sec. 10.** RCW 75.08.070 and 1989 c 130 s 1 are each amended to read
23 as follows:

24 Consistent with federal law, the ((~~director's~~)) commission's
25 authority extends to all areas and waters within the territorial
26 boundaries of the state, to the offshore waters, and to the concurrent
27 waters of the Columbia river.

28 Consistent with federal law, the ((~~director's~~)) commission's
29 authority extends to fishing in offshore waters by residents of this
30 state.

31 The ((~~director~~)) commission may adopt rules consistent with the
32 regulations adopted by the United States department of commerce for the
33 offshore waters. The ((~~director~~)) commission may adopt rules
34 consistent with the recommendations or regulations of the Pacific
35 marine fisheries commission, Columbia river compact, the Pacific salmon

1 commission as provided in chapter 75.40 RCW, or the international
2 Pacific halibut commission.

3 **Sec. 11.** RCW 75.08.080 and 1993 c 117 s 1 are each amended to read
4 as follows:

5 (1) The (~~director~~) commission may adopt, amend, or repeal rules
6 as follows:

7 (a) Specifying the times when the taking of food fish or shellfish
8 is lawful or unlawful.

9 (b) Specifying the areas and waters in which the taking and
10 possession of food fish or shellfish is lawful or unlawful.

11 (c) Specifying and defining the gear, appliances, or other
12 equipment and methods that may be used to take food fish or shellfish,
13 and specifying the times, places, and manner in which the equipment may
14 be used or possessed.

15 (d) Regulating the possession, disposal, landing, and sale of food
16 fish or shellfish within the state, whether acquired within or without
17 the state.

18 (e) Regulating the prevention and suppression of diseases and pests
19 affecting food fish or shellfish.

20 (f) Regulating the size, sex, species, and quantities of food fish
21 or shellfish that may be taken, possessed, sold, or disposed of.

22 (g) Specifying the statistical and biological reports required from
23 fishermen, dealers, boathouses, or processors of food fish or
24 shellfish.

25 (h) Classifying species of marine and freshwater life as food fish
26 or shellfish.

27 (i) Classifying the species of food fish and shellfish that may be
28 used for purposes other than human consumption.

29 (j) Other rules necessary to carry out this title and the purposes
30 and duties of the department.

31 (2) Subsections (1)(a), (b), (c), (d), and (f) of this section do
32 not apply to private tideland owners and lessees and the immediate
33 family members of the owners or lessees of state tidelands, when they
34 take or possess oysters, clams, cockles, borers, or mussels, excluding
35 razor clams, produced on their own private tidelands or their leased
36 state tidelands for personal use.

37 "Immediate family member" for the purposes of this section means a
38 spouse, brother, sister, grandparent, parent, child, or grandchild.

1 (3) Except for subsection (1)(g) of this section, this section does
2 not apply to private sector cultured aquatic products as defined in RCW
3 15.85.020. Subsection (1)(g) of this section does apply to such
4 products.

5 **Sec. 12.** RCW 75.08.090 and 1983 1st ex.s. c 46 s 16 are each
6 amended to read as follows:

7 (1) Rules of the ((~~director~~)) commission shall be adopted by the
8 ((~~director~~)) commission or a designee in accordance with chapter 34.05
9 RCW.

10 (2) Rules of the ((~~director~~)) commission shall be admitted as
11 evidence in the courts of the state when accompanied by an affidavit
12 from the ((~~director~~)) commission or a designee certifying that the rule
13 has been lawfully adopted and the affidavit is prima facie evidence of
14 the adoption of the rule.

15 (3) The ((~~director~~)) commission may designate department employees
16 to act on the ((~~director's~~)) commission's behalf in the adoption and
17 certification of rules.

18 **Sec. 13.** RCW 75.08.110 and 1983 1st ex.s. c 46 s 17 are each
19 amended to read as follows:

20 Provisions of this title or rules of the ((~~director~~)) commission
21 shall not be printed in a pamphlet unless the pamphlet is clearly
22 marked as an unofficial version. This section does not apply to
23 printings approved by the ((~~director~~)) commission.

24 **Sec. 14.** RCW 75.08.120 and 1983 1st ex.s. c 46 s 18 are each
25 amended to read as follows:

26 The ((~~director~~)) commission may designate the boundaries of fishing
27 areas by driving piling or by establishing monuments or by description
28 of landmarks or section lines and directional headings.

29 **Sec. 15.** RCW 75.08.274 and 1983 1st ex.s. c 46 s 28 are each
30 amended to read as follows:

31 Except by permit of the ((~~director~~)) commission, it is unlawful to
32 take food fish or shellfish for propagation or scientific purposes
33 within state waters.

1 **Sec. 16.** RCW 75.08.285 and 1983 1st ex.s. c 46 s 29 are each
2 amended to read as follows:

3 The ((~~director~~)) commission may prohibit the introduction,
4 transportation or transplanting of food fish, shellfish, organisms,
5 material, or other equipment which in the ((~~director's~~)) commission's
6 judgment may transmit any disease or pests affecting food fish or
7 shellfish.

8 **Sec. 17.** RCW 75.08.295 and 1983 1st ex.s. c 46 s 30 are each
9 amended to read as follows:

10 Except by permit of the ((~~director~~)) commission, it is unlawful to
11 release, plant, or place food fish or shellfish in state waters.

12 **Sec. 18.** RCW 75.08.460 and 1990 c 91 s 2 are each amended to read
13 as follows:

14 The ((~~director~~)) commission shall report to the governor and the
15 appropriate legislative committees regarding its progress on the
16 recreational fishery enhancement plan giving the following minimum
17 information:

18 (1) By July 1, 1990, and by July 1st each succeeding year a report
19 shall include:

20 (a) Progress on all programs within the plan that are referred to
21 as already underway; and

22 (b) Specific anticipated needs for additional FTE's, additional
23 capital funds or other needed resources, including whether or not
24 current budgetary dollars are sufficient.

25 (2) By November 1, 1990, and by November 1st each succeeding year
26 a report shall provide the many specificities omitted from the
27 recreational fishery enhancement plan. They include but are not
28 limited to the following:

29 (a) The name of the person assigned the responsibility and
30 accountability for over-all management of the recreational fishery
31 enhancement plan.

32 (b) The name of the person responsible and accountable for
33 management of each regional program.

34 (c) The anticipated yearly costs related to each regional program.

35 (d) The specific dates relative to attainment of the recreational
36 fishery enhancement plan goals, including a time-line program by
37 region.

1 (e) Criteria used for measurement of the successful attainment of
2 the recreational fishery enhancement plan.

3 **Sec. 19.** RCW 75.40.020 and 1983 1st ex.s. c 46 s 150 are each
4 amended to read as follows:

5 The ((~~director~~)) commission may give to the state of Oregon such
6 consent and approbation of the state of Washington as is necessary
7 under the compact set out in RCW 75.40.010. For the purposes of RCW
8 75.40.010, the states of Washington and Oregon have concurrent
9 jurisdiction in the concurrent waters of the Columbia river as defined
10 in RCW 75.08.011.

11 **Sec. 20.** RCW 75.40.040 and 1983 1st ex.s. c 46 s 152 are each
12 amended to read as follows:

13 ((~~The director~~)) A member selected by or a designee of the fish and
14 wildlife commission, ex officio, and two appointees of the governor
15 representing the fishing industry shall act as the representatives of
16 this state on the Pacific Marine Fisheries Commission. The appointees
17 of the governor are subject to confirmation by the state senate.

18 **Sec. 21.** RCW 75.40.060 and 1989 c 130 s 2 are each amended to read
19 as follows:

20 The ((~~director~~)) commission may adopt and enforce the provisions of
21 the treaty between the government of the United States and the
22 government of Canada concerning Pacific salmon, treaty document number
23 99-2, entered into force March 18, 1985, at Quebec City, Canada, and
24 the regulations of the commission adopted under authority of the
25 treaty.

26 **Sec. 22.** RCW 75.08.014 and 1993 sp.s. c 2 s 21 are each amended to
27 read as follows:

28 The director shall supervise the administration and operation of
29 the department and perform the duties prescribed by law and delegated
30 by the commission. The director may appoint and employ necessary
31 personnel. The director may delegate, in writing, to department
32 personnel the duties and powers necessary for efficient operation and
33 administration of the department.

34 Only persons having general knowledge of the fisheries and wildlife
35 resources and of the commercial and recreational fishing industry in

1 this state are eligible for appointment as director. The director
2 shall not have a financial interest in the fishing industry or a
3 directly related industry.

4 **Sec. 23.** RCW 75.08.040 and 1983 1st ex.s. c 46 s 9 are each
5 amended to read as follows:

6 The ((~~director~~)) commission may acquire by gift, easement,
7 purchase, lease, or condemnation lands, water rights, and rights of
8 way, and construct and maintain necessary facilities for purposes
9 consistent with this title.

10 The ((~~director~~)) commission may sell, lease, convey, or grant
11 concessions upon real or personal property under the control of the
12 department.

13 **Sec. 24.** RCW 75.08.045 and 1983 1st ex.s. c 46 s 11 are each
14 amended to read as follows:

15 The ((~~director~~)) commission may accept money or real property from
16 persons under conditions requiring the use of the property or money for
17 the protection, rehabilitation, preservation, or conservation of the
18 state food fish and shellfish resources, or in settlement of claims for
19 damages to food fish and shellfish resources. The ((~~director~~))
20 commission shall only accept real property useful for the protection,
21 rehabilitation, preservation, or conservation of these fisheries
22 resources.

23 **Sec. 25.** RCW 75.12.010 and 1983 1st ex.s. c 46 s 46 are each
24 amended to read as follows:

25 (1) Except as provided in this section, it is unlawful to fish
26 commercially for salmon within the waters described in subsection (2)
27 of this section.

28 (2) All waters east and south of a line commencing at a concrete
29 monument on Angeles Point in Clallam county near the mouth of the Elwha
30 River on which is inscribed "Angeles Point Monument" (latitude 48½ 9'
31 3"north, longitude 123½ 33' 01" west of Greenwich Meridian); thence
32 running east on a line 81½ 30' true across the flashlight and bell buoy
33 off Partridge Point and thence continued to longitude 122½ 40' west;
34 thence north to the southerly shore of Sinclair Island; thence along
35 the southerly shore of the island to the most easterly point of the
36 island; thence 46½ true to Carter Point, the most southerly point of

1 Lummi Island; thence northwesterly along the westerly shore line of
2 Lummi Island to where the shore line intersects line of longitude 122¹
3 40' west; thence north to the mainland, including: The southerly
4 portion of Hale Passage, Bellingham Bay, Padilla Bay, Fidalgo Bay,
5 Guemes Channel, Skagit Bay, Similk Bay, Saratoga Passage, Holmes
6 Harbor, Possession Sound, Admiralty Inlet, Hood Canal, Puget Sound, and
7 their inlets, passages, waters, waterways, and tributaries.

8 (3) The ((~~director~~)) commission may authorize commercial fishing
9 for sockeye salmon within the waters described in subsection (2) of
10 this section during the period June 10 to July 25 and for other salmon
11 from the second Monday of September through November 30, except during
12 the hours between 4:00 p.m. of Friday and 4:00 p.m. of the following
13 Sunday.

14 (4) The ((~~director~~)) commission may authorize commercial fishing
15 for salmon with gill net gear prior to the second Monday in September
16 within the waters of Hale Passage, Bellingham Bay, Samish Bay, Padilla
17 Bay, Fidalgo Bay, Guemes Channel, Skagit Bay, and Similk Bay, to wit:
18 Those waters northerly and easterly of a line commencing at Stanwood,
19 thence along the south shore of Skagit Bay to Rocky Point on Camano
20 Island; thence northerly to Polnell Point on Whidbey Island.

21 (5) Whenever the ((~~director~~)) commission determines that a stock or
22 run of salmon cannot be harvested in the usual manner, and that the
23 stock or run of salmon may be in danger of being wasted and surplus to
24 natural or artificial spawning requirements, the ((~~director~~))
25 commission may authorize units of gill net and purse seine gear in any
26 number or equivalents, by time and area, to fully utilize the
27 harvestable portions of these salmon runs for the economic well being
28 of the citizens of this state. Gill net and purse seine gear other
29 than emergency and test gear authorized by the director shall not be
30 used in Lake Washington.

31 (6) The ((~~director~~)) commission may authorize commercial fishing
32 for pink salmon in each odd-numbered year from August 1 through
33 September 1 in the waters lying inside of a line commencing at the most
34 easterly point of Dungeness Spit and thence projected to Point
35 Partridge on Whidbey Island and a line commencing at Olele Point and
36 thence projected easterly to Bush Point on Whidbey Island.

37 **Sec. 26.** RCW 75.12.015 and 1983 1st ex.s. c 46 s 48 are each
38 amended to read as follows:

1 Except as provided in this section, it is unlawful to fish
2 commercially for chinook or coho salmon in the Pacific Ocean and the
3 Straits of Juan de Fuca.

4 (1) The ((~~director~~)) commission may authorize commercial fishing
5 for coho salmon from June 16 through October 31.

6 (2) The ((~~director~~)) commission may authorize commercial fishing
7 for chinook salmon from March 15 through October 31.

8 **Sec. 27.** RCW 75.20.110 and 1993 sp.s. c 2 s 36 are each amended to
9 read as follows:

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

16 (2) Within the sanctuary area:

17 (a) It is unlawful to construct a dam greater than twenty-five feet
18 high within the migration range of anadromous fish as determined by the
19 ((~~director~~)) commission.

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

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

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

31 **Sec. 28.** RCW 75.24.030 and 1983 1st ex.s. c 46 s 79 are each
32 amended to read as follows:

33 Only upon recommendation of the ((~~director~~)) commission may the
34 state oyster reserves be sold, leased, or otherwise disposed of by the
35 department of natural resources.

1 **Sec. 29.** RCW 75.24.100 and 1993 c 340 s 51 are each amended to
2 read as follows:

3 (1) It is unlawful to take geoduck clams for commercial purposes
4 outside the harvest area designated in a current department of natural
5 resources geoduck harvesting agreement issued under RCW 79.96.080. It
6 is unlawful to commercially harvest geoduck clams from bottoms that are
7 shallower than eighteen feet below mean lower low water (0.0. ft.), or
8 that lie in an area bounded by the line of ordinary high tide (mean
9 high tide) and a line two hundred yards seaward from and parallel to
10 the line of ordinary high tide. This section does not apply to the
11 harvest of private sector cultured aquatic products as defined in RCW
12 15.85.020.

13 (2) Commercial geoduck harvesting shall be done with a hand-held,
14 manually operated water jet or suction device guided and controlled
15 from under water by a diver. Periodically, the ~~((director))~~ commission
16 shall determine the effect of each type or unit of gear upon the
17 geoduck population or the substrate they inhabit. The ~~((director))~~
18 commission may require modification of the gear or stop its use if it
19 is being operated in a wasteful or destructive manner or if its
20 operation may cause permanent damage to the bottom or adjacent
21 shellfish populations.

22 **Sec. 30.** RCW 75.24.130 and 1983 1st ex.s. c 46 s 89 are each
23 amended to read as follows:

24 The ~~((director))~~ commission may examine the clam, mussel, and
25 oyster beds located on aquatic lands belonging to the state and request
26 the commissioner of public lands to withdraw these lands from sale and
27 lease for the purpose of establishing reserves or public beaches. The
28 ~~((director))~~ commission shall conserve, protect, and develop these
29 reserves and the oyster, shrimp, clam, and mussel beds on state lands.

30 **Sec. 31.** RCW 75.25.095 and 1990 c 34 s 2 are each amended to read
31 as follows:

32 ~~((Notwithstanding RCW 75.25.090,))~~ The ~~((director))~~ commission may
33 adopt rules designating times and places for the purposes of family
34 fishing days when a recreational fishing license is not required to
35 fish for food fish or shellfish. All other applicable laws and rules
36 shall remain in effect.

1 **Sec. 32.** RCW 75.30.060 and 1983 1st ex.s. c 46 s 139 are each
2 amended to read as follows:

3 A person aggrieved by a decision of the department under this
4 chapter may request administrative review under the informal procedure
5 established by this section.

6 In an informal hearing before a review board, the rules of evidence
7 do not apply. A record of the proceeding shall be kept as provided by
8 chapter 34.05 RCW. After hearing the case the review board shall
9 notify in writing the ((~~director~~)) commission and the initiating party
10 whether the review board agrees or disagrees with the department's
11 decision and the reasons for the board's findings. Upon receipt of the
12 board's findings the ((~~director~~)) commission may order such relief as
13 the ((~~director~~)) commission deems appropriate under the circumstances.

14 Nothing in this section: (1) Impairs an aggrieved person's right
15 to proceed under chapter 34.05 RCW; or (2) imposes a liability on
16 members of a review board for their actions under this section.

17 **Sec. 33.** RCW 75.50.010 and 1993 sp.s. c 2 s 45 are each amended to
18 read as follows:

19 Currently, many of the salmon stocks of Washington state are
20 critically reduced from their sustainable level. The best interests of
21 all fishing groups and the citizens as a whole are served by a stable
22 and productive salmon resource. Immediate action is needed to reverse
23 the severe decline of the resource and to insure its very survival.
24 The legislature finds a state of emergency exists and that immediate
25 action is required to restore its fishery.

26 Disagreement and strife have dominated the salmon fisheries for
27 many years. Conflicts among the various fishing interests have only
28 served to erode the resource. It is time for the state of Washington
29 to make a major commitment to increasing productivity of the resource
30 and to move forward with an effective rehabilitation and enhancement
31 program. The ((~~department~~)) commission is directed to dedicate its
32 efforts and the efforts of the department to seek resolution to the
33 many conflicts that involve the resource.

34 Success of the enhancement program can only occur if projects
35 efficiently produce salmon or restore habitat. The expectation of the
36 program is to optimize the efficient use of funding on projects that
37 will increase artificially and naturally produced salmon, restore and
38 improve habitat, or identify ways to increase the survival of salmon.

1 The full utilization of state resources and cooperative efforts with
2 interested groups are essential to the success of the program.

3 **Sec. 34.** RCW 75.50.020 and 1985 c 458 s 2 are each amended to read
4 as follows:

5 (1) The ((~~director~~)) commission shall develop long-term regional
6 policy statements regarding the salmon fishery resources before
7 December 1, 1985. The ((~~director~~)) commission shall consider the
8 following in formulating and updating regional policy statements:

9 (a) Existing resource needs;

10 (b) Potential for creation of new resources;

11 (c) Successful existing programs, both within and outside the
12 state;

13 (d) Balanced utilization of natural and hatchery production;

14 (e) Desires of the fishing interest;

15 (f) Need for additional data or research;

16 (g) Federal court orders; and

17 (h) Salmon advisory council recommendations.

18 (2) The ((~~director~~)) commission shall review and update each policy
19 statement at least once each year.

20 **Sec. 35.** RCW 75.50.030 and 1985 c 458 s 3 are each amended to read
21 as follows:

22 (1) The ((~~director~~)) commission shall develop a detailed salmon
23 enhancement plan with proposed enhancement projects. The plan and the
24 regional policy statements shall be submitted to the secretary of the
25 senate and chief clerk of the house of representatives for legislative
26 distribution by June 30, 1986. The enhancement plan and regional
27 policy statements shall be provided by June 30, 1986, to the natural
28 resources committees of the house of representatives and the senate.
29 The ((~~director~~)) commission shall provide a maximum opportunity for the
30 public to participate in the development of the salmon enhancement
31 plan. To insure full participation by all interested parties, the
32 ((~~director~~)) commission shall solicit and consider enhancement project
33 proposals from Indian tribes, sports fishermen, commercial fishermen,
34 private aquaculturists, and other interested groups or individuals for
35 potential inclusion in the salmon enhancement plan. Joint or
36 cooperative enhancement projects shall be considered for funding.

1 (2) The following criteria shall be used by the ((director))
2 commission in formulating the project proposals:

3 (a) Compatibility with the long-term policy statement;

4 (b) Benefit/cost analysis;

5 (c) Needs of all fishing interests;

6 (d) Compatibility with regional plans, including harvest management
7 plans;

8 (e) Likely increase in resource productivity;

9 (f) Direct applicability of any research;

10 (g) Salmon advisory council recommendations;

11 (h) Compatibility with federal court orders;

12 (i) Coordination with the salmon and steelhead advisory commission
13 program;

14 (j) Economic impact to the state;

15 (k) Technical feasibility; and

16 (l) Preservation of native salmon runs.

17 (3) The ((director)) commission shall not approve projects that
18 serve as replacement funding for projects that exist prior to May 21,
19 1985, unless no other sources of funds are available.

20 (4) The ((director)) commission shall prioritize various projects
21 and establish a recommended implementation time schedule.

22 **Sec. 36.** RCW 75.50.040 and 1985 c 458 s 4 are each amended to read
23 as follows:

24 Upon approval by the legislature of funds for its implementation,
25 the ((director)) commission shall monitor the progress of projects
26 detailed in the salmon enhancement plan.

27 The ((director)) commission shall be responsible for establishing
28 criteria which shall be used to measure the success of each project in
29 the salmon enhancement plan.

30 **Sec. 37.** RCW 75.50.050 and 1987 c 505 s 72 are each amended to
31 read as follows:

32 The ((director)) commission shall report to the legislature on or
33 before October 30th of each year ((through 1991)) on the progress and
34 performance of each project. The report shall contain an analysis of
35 the successes and failures of the program to enable optimum development
36 of the program. The report shall include estimates of funding levels
37 necessary to operate the projects in future years.

1 The (~~director~~) commission shall submit the reports and any
2 additional recommendations to the chairs of the committees on ways and
3 means and the committees on natural resources of the senate and house
4 of representatives.

5 **Sec. 38.** RCW 75.50.070 and 1993 sp.s. c 2 s 46 are each amended to
6 read as follows:

7 The legislature finds that it is in the best interest of the salmon
8 resource of the state to encourage the development of regional
9 fisheries enhancement groups. The accomplishments of one existing
10 group, the Grays Harbor fisheries enhancement task force, have been
11 widely recognized as being exemplary. The legislature recognizes the
12 potential benefits to the state that would occur if each region of the
13 state had a similar group of dedicated citizens working to enhance the
14 salmon resource.

15 The legislature authorizes the formation of regional fisheries
16 enhancement groups. These groups shall be eligible for state financial
17 support and shall be actively supported by the commission and the
18 department. The regional groups shall be operated on a strictly
19 nonprofit basis, and shall seek to maximize the efforts of volunteer
20 and private donations to improve the salmon resource for all citizens
21 of the state.

22 **Sec. 39.** RCW 75.50.100 and 1993 sp.s. c 17 s 11 and 1993 c 340 s
23 53 are each reenacted and amended to read as follows:

24 The dedicated regional fisheries enhancement group account is
25 created in the custody of the state treasurer. Only the (~~director~~)
26 commission or the (~~director's~~) commission's designee may authorize
27 expenditures from the account. The account is subject to allotment
28 procedures under chapter 43.88 RCW, but no appropriation is required
29 for expenditures.

30 A surcharge of one dollar shall be collected on each recreational
31 personal use food fish license sold in the state. A surcharge of one
32 hundred dollars shall be collected on each commercial salmon fishery
33 license, each salmon delivery license, and each salmon charter license
34 sold in the state. The department shall study methods for collecting
35 and making available, an annual list, including names and addresses, of
36 all persons who obtain recreational and commercial salmon fishing
37 licenses. This list may be used to assist formation of the regional

1 fisheries enhancement groups and allow the broadest participation of
2 license holders in enhancement efforts. The results of the study shall
3 be reported to the house of representatives fisheries and wildlife
4 committee and the senate environment and natural resources committee by
5 October 1, 1990. All receipts shall be placed in the regional
6 fisheries enhancement group account and shall be used exclusively for
7 regional fisheries enhancement group projects for the purposes of RCW
8 75.50.110. Funds from the regional fisheries enhancement group account
9 shall not serve as replacement funding for department operated salmon
10 projects that exist on January 1, 1991.

11 All revenue from the department's sale of salmon carcasses and eggs
12 that return to group facilities shall be deposited in the regional
13 fisheries enhancement group account for use by the regional fisheries
14 enhancement group that produced the surplus. The ~~((director))~~
15 commission shall adopt rules to implement this section pursuant to
16 chapter 34.05 RCW.

17 **Sec. 40.** RCW 75.50.110 and 1990 c 58 s 4 are each amended to read
18 as follows:

19 A regional fisheries enhancement group advisory board is
20 established to make recommendations to the ~~((director))~~ commission.
21 The advisory board shall make recommendations regarding regional
22 enhancement group rearing project proposals and funding of those
23 proposals. The members shall be appointed by the ~~((director))~~
24 commission and consist of two commercial fishing representatives, two
25 recreational fishing representatives, and three at-large positions.
26 The advisory board membership shall include two members serving ex
27 officio to be nominated, one through the Northwest Indian fisheries
28 commission, and one through the Columbia river intertribal fish
29 commission.

30 The department may use account funds to provide agency assistance
31 to the groups. The level of account funds used by the department shall
32 be determined by the ~~((director))~~ commission after review and
33 recommendation by the regional fisheries enhancement group advisory
34 board and shall not exceed twenty percent of annual contributions to
35 the account.

36 **Sec. 41.** RCW 75.50.130 and 1993 sp.s. c 2 s 48 are each amended to
37 read as follows:

1 The (~~director~~) commission shall prepare a salmon recovery plan
2 for the Skagit river. The plan shall include strategies for employing
3 displaced timber workers to conduct salmon restoration and other tasks
4 identified in the plan. The plan shall incorporate the best available
5 technology in order to achieve maximum restoration of depressed salmon
6 stocks. The plan must encourage the restoration of natural spawning
7 areas and natural rearing of salmon but must not preclude the
8 development of an active hatchery program.

9 **Sec. 42.** RCW 75.52.050 and 1984 c 72 s 5 are each amended to read
10 as follows:

11 The (~~director of each department~~) commission shall establish by
12 rule:

13 (1) The procedure for entering a cooperative agreement and the
14 application forms for a permit to release fish or wildlife required by
15 RCW 75.08.295 or 77.16.150. The procedure shall indicate the
16 information required from the volunteer group as well as the process of
17 review by the department. The process of review shall include the
18 means to coordinate with other agencies and Indian tribes when
19 appropriate and to coordinate the review of any necessary hydraulic
20 permit approval applications.

21 (2) The procedure for providing within forty-five days of receipt
22 of a proposal a written response to the volunteer group indicating the
23 date by which an acceptance or rejection of the proposal can be
24 expected, the reason why the date was selected, and a written summary
25 of the process of review. The response should also include any
26 suggested modifications to the proposal which would increase its
27 likelihood of approval and the date by which such modified proposal
28 could be expected to be accepted. If the proposal is rejected, the
29 department must provide in writing the reasons for rejection. The
30 volunteer group may request the director or the director's designee to
31 review information provided in the response.

32 (3) The priority of the uses to which eggs, seed, juveniles, or
33 brood stock are put. Use by cooperative projects shall be second in
34 priority only to the needs of programs of the department or of other
35 public agencies within the territorial boundaries of the state. Sales
36 of eggs, seed, juveniles, or brood stock have a lower priority than use
37 for cooperative projects.

1 (4) The procedure for notice in writing to a volunteer group of
2 cause to revoke the agreement for the project and the procedure for
3 revocation. Revocation shall be documented in writing to the volunteer
4 group. Cause for revocation may include: (a) The unavailability of
5 adequate biological or financial resources; (b) the development of
6 unacceptable biological or resource management conflicts; or (c) a
7 violation of agreement provisions. Notice of cause to revoke for a
8 violation of agreement provisions may specify a reasonable period of
9 time within which the volunteer group must comply with any violated
10 provisions of the agreement.

11 (5) An appropriate method of distributing among volunteer groups
12 fish, bird, or animal food or other supplies available for the program.

13 **Sec. 43.** RCW 77.16.135 and 1993 sp.s. c 2 s 74 are each amended to
14 read as follows:

15 (1) The (~~director~~) commission shall revoke all licenses and
16 privileges extended under Title 77 RCW of a person convicted of assault
17 on a state wildlife agent or other law enforcement officer provided
18 that:

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

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

23 (2) For the purposes of this section, the definition of assault
24 includes:

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

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

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

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

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

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

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

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

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

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

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

37 or

1 (d) The imposition of a deferred or suspended sentence by the
2 court.

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

13 NEW SECTION. **Sec. 44.** By July 1, 1996, the fish and wildlife
14 commission shall submit to the committees on natural resources of the
15 house of representatives and the senate a report identifying other
16 statutory changes necessary for implementation of the commission's
17 recommendations regarding its responsibilities in the department of
18 fish and wildlife.

19 NEW SECTION. **Sec. 45.** Sections 2 through 43 of this act shall
20 take effect July 1, 1996.

21 NEW SECTION. **Sec. 46.** This act shall be submitted to the people
22 for their adoption and ratification, or rejection, at the next
23 succeeding general election to be held in this state, in accordance
24 with Article II, section 1 of the state Constitution, as amended, and
25 the laws adopted to facilitate the operation thereof.

Passed the Senate May 17, 1995.

Passed the House May 23, 1995.

Filed in Office of Secretary of State May 24, 1995.