

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE SENATE BILL 6328

Chapter 190, Laws of 1998

(partial veto)

55th Legislature
1998 Regular Session

FISH AND WILDLIFE ENFORCEMENT CODE

EFFECTIVE DATE: 6/11/98

Passed by the Senate March 11, 1998
YEAS 45 NAYS 0

BRAD OWEN

President of the Senate

Passed by the House March 10, 1998
YEAS 94 NAYS 0

CLYDE BALLARD

**Speaker of the
House of Representatives**

Approved March 27, 1998, with the
exception of section 123, which is
vetoed.

CERTIFICATE

I, Mike O Connell, Secretary of the
Senate of the State of Washington,
do hereby certify that the attached
is **ENGROSSED SUBSTITUTE SENATE BILL
6328** as passed by the Senate and the
House of Representatives on the
dates hereon set forth.

MIKE O'CONNELL

Secretary

FILED

March 27, 1998 - 3:32 p.m.

GARY LOCKE

Governor of the State of Washington

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE SENATE BILL 6328

AS AMENDED BY THE HOUSE

Passed Legislature - 1998 Regular Session

State of Washington 55th Legislature 1998 Regular Session

By Senate Committee on Natural Resources & Parks (originally sponsored by Senators Oke, Jacobsen and Swecker; by request of Department of Fish and Wildlife)

Read first time 02/06/98.

1 AN ACT Relating to fish and wildlife code enforcement; amending RCW
2 75.12.320, 77.16.135, 75.08.011, 75.08.160, 75.08.274, 75.08.295,
3 75.08.300, 75.12.010, 75.12.015, 75.12.040, 75.12.132, 75.12.140,
4 75.12.210, 75.12.230, 75.12.390, 75.12.440, 75.12.650, 75.20.040,
5 75.20.060, 75.20.103, 75.20.110, 75.24.080, 75.24.100, 75.24.110,
6 75.28.010, 75.28.045, 75.28.095, 75.28.113, 75.28.125, 75.28.710,
7 75.28.740, 75.30.070, 75.30.140, 75.30.160, 75.30.210, 75.30.250,
8 75.30.280, 75.30.290, 75.30.350, 75.30.450, 75.58.010, 77.08.010,
9 77.12.055, 77.12.080, 77.12.090, 77.12.095, 77.12.120, 77.16.010,
10 77.16.020, 77.16.095, 77.16.170, 77.16.220, and 77.32.350; reenacting
11 and amending RCW 75.20.100 and 75.30.130; adding a new chapter to Title
12 77 RCW; creating a new section; recodifying RCW 75.10.100, 75.10.220,
13 75.12.320, 77.12.120, 77.12.130, and 77.16.135; repealing RCW
14 75.10.010, 75.10.020, 75.10.030, 75.10.040, 75.10.050, 75.10.060,
15 75.10.080, 75.10.090, 75.10.110, 75.10.120, 75.10.130, 75.10.140,
16 75.10.170, 75.10.180, 75.10.190, 75.10.200, 75.10.210, 75.12.020,
17 75.12.031, 75.12.070, 75.12.090, 75.12.100, 75.12.115, 75.12.120,
18 75.12.125, 75.12.127, 75.12.400, 75.12.410, 75.12.420, 75.12.430,
19 75.24.050, 75.24.090, 75.25.150, 77.12.060, 77.12.070, 77.16.040,
20 77.16.050, 77.16.060, 77.16.080, 77.16.090, 77.16.100, 77.16.110,
21 77.16.120, 77.16.130, 77.16.150, 77.16.160, 77.16.180, 77.16.190,
22 77.16.250, 77.16.260, 77.16.310, 77.16.320, 77.16.330, 77.16.610,
23 77.21.010, 77.21.040, and 77.21.060; and prescribing penalties.

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

2 NEW SECTION. **Sec. 1.** PURPOSE. The legislature finds that merger
3 of the departments of fisheries and wildlife resulted in two criminal
4 codes applicable to fish and wildlife, and that it has become
5 increasingly difficult to administer and enforce the two criminal
6 codes. Furthermore, laws defining crimes involving fish and wildlife
7 have evolved over many years of changing uses and management objectives
8 for fish and wildlife. The resulting two codes make it difficult for
9 citizens to comply with the law and unnecessarily complicate
10 enforcement of laws against violators.

11 The legislature intends by chapter . . ., Laws of 1998 (this act)
12 to revise and recodify the criminal laws governing fish and wildlife,
13 ensuring that all people involved with fish and wildlife are able to
14 know and understand the requirements of the laws and the risks of
15 violation. Additionally, the legislature intends to create a more
16 uniform approach to criminal laws governing fish and wildlife and to
17 the laws authorizing prosecution, sentencing, and punishments,
18 including repealing crimes that are redundant to other provisions of
19 the criminal code.

20 Chapter . . ., Laws of 1998 (this act) is not intended to alter
21 existing powers of the commission or the director to adopt rules or
22 exercise powers over fish and wildlife. In some places reference is
23 made to violation of department rules, but this is intended to conform
24 with current powers of the commission, director, or both, to adopt
25 rules governing fish and wildlife activities.

26 NEW SECTION. **Sec. 2.** EXEMPTION FOR DEPARTMENT ACTIONS. A person
27 is not guilty of a crime under this chapter if the person is an
28 officer, employee, or agent of the department lawfully acting in the
29 course of his or her authorized duties.

30 NEW SECTION. **Sec. 3.** AUTHORITY TO DEFINE VIOLATION OF A RULE AS
31 AN INFRACTION. If the commission or director has authority to adopt a
32 rule that is punishable as a crime under this chapter, then the
33 commission or director may provide that violation of the rule shall be
34 punished with notice of infraction under RCW 7.84.030.

1 NEW SECTION. **Sec. 4.** SEPARATE OFFENSES FOR EACH BIG GAME,
2 PROTECTED, OR ENDANGERED ANIMAL. Where it is unlawful to hunt, take,
3 fish, or possess big game or protected or endangered fish or wildlife,
4 then each individual animal unlawfully taken or possessed is a separate
5 offense.

6 NEW SECTION. **Sec. 5.** JURISDICTION. District courts have
7 jurisdiction concurrent with superior courts for misdemeanors and gross
8 misdemeanors committed in violation of this chapter and may impose the
9 punishment provided for these offenses. Superior courts have
10 jurisdiction over felonies committed in violation of this chapter.
11 Venue for offenses occurring in off-shore waters shall be in a county
12 bordering on the Pacific Ocean, or the county where fish or wildlife
13 from the offense are landed.

14 NEW SECTION. **Sec. 6.** CONVICTION IN A STATE OR MUNICIPAL COURT.
15 Unless the context clearly requires otherwise, as used in this chapter,
16 "conviction" means a final conviction in a state or municipal court or
17 an unvacated forfeiture of bail or collateral deposited to secure the
18 defendant's appearance in court. A plea of guilty, or a finding of
19 guilt for a violation of this title or rule of the commission or
20 director constitutes a conviction regardless of whether the imposition
21 of sentence is deferred or the penalty is suspended.

22 NEW SECTION. **Sec. 7.** REFERENCE TO CHAPTERS 7.84 AND 9A.20 RCW.
23 Crimes defined by this chapter shall be punished as infractions,
24 misdemeanors, gross misdemeanors, or felonies, based on the
25 classification of crimes set out in chapters 7.84 and 9A.20 RCW.

26 NEW SECTION. **Sec. 8.** ACTING FOR COMMERCIAL PURPOSES--VALUE OF
27 FISH OR WILDLIFE--PROOF. (1) For purposes of this chapter, a person
28 acts for commercial purposes if the person:

29 (a) Acts with intent to sell, attempted to sell, sold, bartered,
30 attempted to purchase, or purchased fish or wildlife;

31 (b) Uses gear typical of that used in commercial fisheries;

32 (c) Exceeds the bag or possession limits for personal use by taking
33 or possessing more than three times the amount of fish or wildlife
34 allowed;

1 (d) Delivers or attempts to deliver fish or wildlife to a person
2 who sells or resells fish or wildlife including any licensed or
3 unlicensed wholesaler; or

4 (e) Takes fish using a vessel designated on a commercial fishery
5 license and gear not authorized in a personal use fishery.

6 (2) For purposes of this chapter, the value of any fish or wildlife
7 may be proved based on evidence of legal or illegal sales involving the
8 person charged or any other person, of offers to sell or solicitation
9 of offers to sell by the person charged or by any other person, or of
10 any market price for the fish or wildlife including market price for
11 farm-raised game animals. The value assigned to specific wildlife by
12 RCW 77.21.070 may be presumed to be the value of such wildlife. It is
13 not relevant to proof of value that the person charged misrepresented
14 that the fish or wildlife was taken in compliance with law if the fish
15 or wildlife was unlawfully taken and had no lawful market value.

16 NEW SECTION. **Sec. 9.** UNLAWFUL HUNTING OF GAME BIRDS. (1) A
17 person is guilty of unlawful hunting of game birds in the second degree
18 if the person:

19 (a) Hunts a game bird and the person does not have and possess all
20 licenses, tags, stamps, and permits required under this title;

21 (b) Maliciously destroys, takes, or harms the eggs or nests of a
22 game bird except when authorized by permit; or

23 (c) Violates any rule of the commission or director regarding
24 seasons, bag or possession limits but less than two times the bag or
25 possession limit, closed areas including game reserves, closed times,
26 or other rule addressing the manner or method of hunting or possession
27 of game birds.

28 (2) A person is guilty of unlawful hunting of game birds in the
29 first degree if the person hunts game birds and the person takes or
30 possesses two times or more than the possession or bag limit for such
31 game birds allowed by rule of the commission or director.

32 (3)(a) Unlawful hunting of game birds in the second degree is a
33 misdemeanor.

34 (b) Unlawful hunting of game birds in the first degree is a gross
35 misdemeanor.

1 NEW SECTION. **Sec. 10.** UNLAWFUL HUNTING OF BIG GAME. (1) A person
2 is guilty of unlawful hunting of big game in the second degree if the
3 person:

4 (a) Hunts big game and the person does not have and possess all
5 licenses, tags, or permits required under this title; or

6 (b) Violates any rule of the commission or director regarding
7 seasons, bag or possession limits, closed areas including game
8 reserves, closed times, or any other rule governing the hunting,
9 taking, or possession of big game.

10 (2) A person is guilty of unlawful hunting of big game in the first
11 degree if the person was previously convicted of any crime under this
12 title involving unlawful hunting, killing, possessing, or taking big
13 game, and within five years of the date that the prior conviction was
14 entered the person hunts for big game and:

15 (a) The person does not have and possess all licenses, tags, or
16 permits required under this title; or

17 (b) The act was in violation of any rule of the commission or
18 director regarding seasons, bag or possession limits, closed areas
19 including game reserves, or closed times.

20 (3)(a) Unlawful hunting of big game in the second degree is a gross
21 misdemeanor.

22 (b) Unlawful hunting of big game in the first degree is a class C
23 felony. Upon conviction, the department shall revoke all licenses or
24 tags involved in the crime and the department shall order the person's
25 hunting privileges suspended for two years.

26 NEW SECTION. **Sec. 11.** UNLAWFUL HUNTING OF GAME ANIMALS. (1) A
27 person is guilty of unlawful hunting of game animals in the second
28 degree if the person:

29 (a) Hunts a game animal that is not classified as big game, and
30 does not have and possess all licenses, tags, or permits required by
31 this title; or

32 (b) Violates any rule of the commission or director regarding
33 seasons, bag or possession limits but less than two times the bag or
34 possession limit, closed areas including game reserves, closed times,
35 or other rule addressing the manner or method of hunting or possession
36 of game animals not classified as big game.

1 (2)(a) A person is guilty of unlawful hunting of game animals in
2 the first degree if the person hunts a game animal that is not
3 classified as big game; and

4 (b) The person takes or possesses two times or more than the
5 possession or bag limit for such game animals allowed by rule of the
6 commission or director.

7 (3)(a) Unlawful hunting of game animals in the second degree is a
8 misdemeanor.

9 (b) Unlawful hunting of game animals in the first degree is a gross
10 misdemeanor.

11 NEW SECTION. **Sec. 12.** WEAPONS, TRAPS, OR DOGS ON GAME RESERVES.

12 (1) A person is guilty of unlawful use of weapons, traps, or dogs on
13 game reserves if:

14 (a) The person uses firearms, other hunting weapons, or traps on a
15 game reserve; or

16 (b) The person negligently allows a dog upon a game reserve.

17 (2) This section does not apply to persons on a public highway or
18 if the conduct is authorized by rule of the department.

19 (3) This section does not apply to a person in possession of a
20 handgun if the person in control of the handgun possesses a valid
21 concealed pistol license and the handgun is concealed on the person.

22 (4) Unlawful use of weapons, traps, or dogs on game reserves is a
23 misdemeanor.

24 NEW SECTION. **Sec. 13.** UNLAWFUL TAKING OF ENDANGERED FISH OR

25 WILDLIFE. (1) A person is guilty of unlawful taking of endangered fish
26 or wildlife in the second degree if the person hunts, fishes,
27 possesses, maliciously harasses or kills fish or wildlife, or
28 maliciously destroys the nests or eggs of fish or wildlife and the fish
29 or wildlife is designated by the commission as endangered, and the
30 taking has not been authorized by rule of the commission.

31 (2) A person is guilty of unlawful taking of endangered fish or
32 wildlife in the first degree if the person has been:

33 (a) Convicted under subsection (1) of this section or convicted of
34 any crime under this title involving the killing, possessing,
35 harassing, or harming of endangered fish or wildlife; and

36 (b) Within five years of the date of the prior conviction the
37 person commits the act described by subsection (1) of this section.

1 (3)(a) Unlawful taking of endangered fish or wildlife in the second
2 degree is a gross misdemeanor.

3 (b) Unlawful taking of endangered fish or wildlife in the first
4 degree is a class C felony. The department shall revoke any licenses
5 or tags used in connection with the crime and order the person's
6 privileges to hunt, fish, trap, or obtain licenses under this title and
7 Title 75 RCW to be suspended for two years.

8 NEW SECTION. **Sec. 14.** UNLAWFUL TAKING OF PROTECTED FISH OR
9 WILDLIFE. (1) A person is guilty of unlawful taking of protected fish
10 or wildlife if:

11 (a) The person hunts, fishes, possesses, or maliciously kills
12 protected fish or wildlife, or the person possesses or maliciously
13 destroys the eggs or nests of protected fish or wildlife, and the
14 taking has not been authorized by rule of the commission; or

15 (b) The person violates any rule of the commission regarding the
16 taking, harming, harassment, possession, or transport of protected fish
17 or wildlife.

18 (2) Unlawful taking of protected fish or wildlife is a misdemeanor.

19 NEW SECTION. **Sec. 15.** UNLAWFUL TAKING OF UNCLASSIFIED FISH OR
20 WILDLIFE. (1) A person is guilty of unlawful taking of unclassified
21 fish or wildlife if:

22 (a) The person kills, hunts, fishes, takes, holds, possesses,
23 transports, or maliciously injures or harms fish or wildlife that is
24 not classified as big game, game fish, game animals, game birds, food
25 fish, shellfish, protected wildlife, or endangered wildlife; and

26 (b) The act violates any rule of the commission or the director.

27 (2) Unlawful taking of unclassified fish or wildlife is a
28 misdemeanor.

29 NEW SECTION. **Sec. 16.** UNLAWFUL USE OF POISON OR EXPLOSIVES. (1)
30 A person is guilty of unlawful use of poison or explosives if:

31 (a) The person lays out, sets out, or uses a drug, poison, or other
32 deleterious substance that kills, injures, harms, or endangers fish or
33 wildlife, except if the person is using the substance in compliance
34 with federal and state laws and label instructions; or

1 (b) The person lays out, sets out, or uses an explosive that kills,
2 injures, harms, or endangers fish or wildlife, except if authorized by
3 law or permit of the director.

4 (2) Unlawful use of poison or explosives is a gross misdemeanor.

5 NEW SECTION. **Sec. 17.** INFRACTION VIOLATION OF RULES GOVERNING
6 FISH AND WILDLIFE. A person is guilty of an infraction, which shall be
7 cited and punished as provided under chapter 7.84 RCW, if the person:

8 (1) Fails to immediately record a catch of fish or shellfish on a
9 catch record card required by RCW 75.25.190 or 77.32.050, or required
10 by rule of the commission under this title or Title 75 RCW; or

11 (2) Fishes for personal use using barbed hooks in violation of any
12 rule; or

13 (3) Violates any other rule of the commission or director that is
14 designated by rule as an infraction.

15 NEW SECTION. **Sec. 18.** UNLAWFUL RECREATIONAL FISHING IN THE SECOND
16 DEGREE. (1) A person is guilty of unlawful recreational fishing in the
17 second degree if the person fishes for, takes, possesses, or harvests
18 fish or shellfish and:

19 (a) The person does not have and possess the license or the catch
20 record card required by chapter 75.25 or 77.32 RCW for such activity;
21 or

22 (b) The action violates any rule of the commission or the director
23 regarding seasons, bag or possession limits but less than two times the
24 bag or possession limit, closed areas, closed times, or any other rule
25 addressing the manner or method of fishing or possession of fish,
26 except for use of a net to take fish as provided for in section 50 of
27 this act.

28 (2) Unlawful recreational fishing in the second degree is a
29 misdemeanor.

30 NEW SECTION. **Sec. 19.** UNLAWFUL RECREATIONAL FISHING IN THE FIRST
31 DEGREE. (1) A person is guilty of unlawful recreational fishing in the
32 first degree if:

33 (a) The person takes, possesses, or retains two times or more than
34 the bag limit or possession limit of fish or shellfish allowed by any
35 rule of the director or commission setting the amount of food fish,

1 game fish, or shellfish that can be taken, possessed, or retained for
2 noncommercial use;

3 (b) The person fishes in a fishway; or

4 (c) The person shoots, gaffs, snags, snares, spears, dipnets, or
5 stones fish in state waters, or possesses fish taken by such means,
6 unless such means are authorized by express rule of the commission or
7 director.

8 (2) Unlawful recreational fishing in the first degree is a gross
9 misdemeanor.

10 NEW SECTION. **Sec. 20.** UNLAWFUL TAKING OF SEAWEED. (1) A person
11 is guilty of unlawful taking of seaweed if the person takes, possesses,
12 or harvests seaweed and:

13 (a) The person does not have and possess the license required by
14 chapter 75.25 RCW for taking seaweed; or

15 (b) The action violates any rule of the department or the
16 department of natural resources regarding seasons, possession limits,
17 closed areas, closed times, or any other rule addressing the manner or
18 method of taking, possessing, or harvesting of seaweed.

19 (2) Unlawful taking of seaweed is a misdemeanor. This does not
20 affect rights of the state to recover civilly for trespass, conversion,
21 or theft of state-owned valuable materials.

22 NEW SECTION. **Sec. 21.** WASTE OF FISH AND WILDLIFE. (1) A person
23 is guilty of waste of fish and wildlife in the second degree if:

24 (a) The person kills, takes, or possesses fish or wildlife and the
25 value of the fish or wildlife is greater than twenty dollars but less
26 than two hundred fifty dollars; and

27 (b) The person recklessly allows such fish or wildlife to be
28 wasted.

29 (2) A person is guilty of waste of fish and wildlife in the first
30 degree if:

31 (a) The person kills, takes, or possesses food fish, shellfish,
32 game fish, game birds, or game animals having a value of two hundred
33 fifty dollars or more; and

34 (b) The person recklessly allows such fish or wildlife to be
35 wasted.

36 (3)(a) Waste of fish and wildlife in the second degree is a
37 misdemeanor.

1 (b) Waste of fish and wildlife in the first degree is a gross
2 misdemeanor. Upon conviction, the department shall revoke any license
3 or tag used in the crime and shall order suspension of the person's
4 privileges to engage in the activity in which the person committed
5 waste of fish and wildlife in the first degree for a period of one
6 year.

7 (4) It is prima facie evidence of waste if a processor purchases or
8 engages a quantity of food fish, shellfish, or game fish that cannot be
9 processed within sixty hours after the food fish or shellfish are taken
10 from the water, unless the food fish or shellfish are preserved in good
11 marketable condition.

12 NEW SECTION. **Sec. 22.** UNLAWFUL INTERFERENCE WITH FISHING OR
13 HUNTING GEAR. (1) A person is guilty of unlawful interference with
14 fishing or hunting gear in the second degree if the person:

15 (a) Takes or releases a wild animal from another person's trap
16 without permission;

17 (b) Springs, pulls up, damages, possesses, or destroys another
18 person's trap without the owner's permission; or

19 (c) Interferes with recreational gear used to take fish or
20 shellfish.

21 (2) Unlawful interference with fishing or hunting gear in the
22 second degree is a misdemeanor.

23 (3) A person is guilty of unlawful interference with fishing or
24 hunting gear in the first degree if the person:

25 (a) Takes or releases food fish or shellfish from commercial
26 fishing gear without the owner's permission; or

27 (b) Intentionally destroys or interferes with commercial fishing
28 gear.

29 (4) Unlawful interference with fishing or hunting gear in the first
30 degree is a gross misdemeanor.

31 (5) A person is not in violation of unlawful interference with
32 fishing or hunting gear if the person removes a trap placed on property
33 owned, leased, or rented by the person.

34 NEW SECTION. **Sec. 23.** FAILING TO IDENTIFY TRAPS FOR FURBEARING
35 ANIMALS. (1) A person is guilty of failing to identify traps for
36 furbearing animals if the person fails to attach to the person's traps
37 or devices a legible metal tag with either the department

1 identification number of the trapper or the name and address of the
2 trapper in English letters not less than one-eighth inch in height.

3 (2) Failing to identify traps for furbearing animals is a
4 misdemeanor.

5 NEW SECTION. **Sec. 24.** OBSTRUCTING THE TAKING OF FISH OR WILDLIFE.

6 (1) A person is guilty of obstructing the taking of fish or wildlife if
7 the person:

8 (a) Harasses, drives, or disturbs fish or wildlife with the intent
9 of disrupting lawful pursuit or taking thereof; or

10 (b) Harasses, intimidates, or interferes with an individual engaged
11 in the lawful taking of fish or wildlife or lawful predator control
12 with the intent of disrupting lawful pursuit or taking thereof.

13 (2) Obstructing the taking of fish or wildlife is a gross
14 misdemeanor.

15 (3) It is an affirmative defense to a prosecution for obstructing
16 the taking of fish or wildlife that the person charged was:

17 (a) Interfering with a person engaged in hunting outside the
18 legally established hunting season; or

19 (b) Preventing or attempting to prevent unauthorized trespass on
20 private property.

21 (4) The person raising a defense under subsection (3) of this
22 section has the burden of proof by a preponderance of the evidence.

23 NEW SECTION. **Sec. 25.** UNLAWFUL POSTING. (1) A person is guilty
24 of unlawful posting if the individual posts signs preventing hunting or
25 fishing on any land not owned or leased by the individual, or without
26 the permission of the person who owns, leases, or controls the land
27 posted.

28 (2) Unlawful posting is a misdemeanor.

29 NEW SECTION. **Sec. 26.** UNLAWFUL USE OF DEPARTMENT LANDS OR
30 FACILITIES. (1) A person is guilty of unlawful use of department lands
31 or facilities if the person enters upon, uses, or remains upon
32 department lands or facilities in violation of any rule of the
33 department.

34 (2) Unlawful use of department lands or facilities is a
35 misdemeanor.

1 NEW SECTION. **Sec. 27.** SPOTLIGHTING BIG GAME. (1) A person is
2 guilty of spotlighting big game in the second degree if the person
3 hunts big game with the aid of a spotlight or other artificial light
4 while in possession or control of a firearm, bow and arrow, or cross
5 bow.

6 (2) A person is guilty of spotlighting big game in the first degree
7 if:

8 (a) The person has any prior conviction for gross misdemeanor or
9 felony for a crime under this title involving big game including but
10 not limited to subsection (1) of this section or section 10 of this
11 act; and

12 (b) Within ten years of the date that such prior conviction was
13 entered the person commits the act described by subsection (1) of this
14 section.

15 (3)(a) Spotlighting big game in the second degree is a gross
16 misdemeanor.

17 (b) Spotlighting big game in the first degree is a class C felony.
18 Upon conviction, the department shall order suspension of all
19 privileges to hunt wildlife for a period of two years.

20 NEW SECTION. **Sec. 28.** UNLAWFUL USE OR POSSESSION OF A LOADED
21 FIREARM. (1) A person is guilty of unlawful possession of a loaded
22 firearm in a motor vehicle if:

23 (a) The person carries, transports, conveys, possesses, or controls
24 a rifle or shotgun in a motor vehicle; and

25 (b) The rifle or shotgun contains shells or cartridges in the
26 magazine or chamber, or is a muzzle-loading firearm that is loaded and
27 capped or primed.

28 (2) A person is guilty of unlawful use of a loaded firearm if the
29 person negligently shoots a firearm from, across, or along the
30 maintained portion of a public highway.

31 (3) Unlawful possession of a loaded firearm in a motor vehicle is
32 a misdemeanor.

33 (4) This section does not apply if the person:

34 (a) Is a law enforcement officer who is authorized to carry a
35 firearm and is on duty within the officer's respective jurisdiction;

36 (b) Possesses a disabled hunter's permit as provided by RCW
37 77.32.237 and complies with all rules of the department concerning
38 hunting by persons with disabilities.

1 (5) For purposes of this section, a firearm shall not be considered
2 loaded if the detachable clip or magazine is not inserted in or
3 attached to the firearm.

4 NEW SECTION. Sec. 29. UNLAWFULLY AVOIDING WILDLIFE CHECK STATIONS
5 OR FIELD INSPECTIONS. (1) A person is guilty of unlawfully avoiding
6 wildlife check stations or field inspections if the person fails to:

7 (a) Obey check station signs;

8 (b) Stop and report at a check station if directed to do so by a
9 uniformed fish and wildlife officer; or

10 (c) Produce for inspection upon request by a fish and wildlife
11 officer: (i) Hunting or fishing equipment; (ii) seaweed, fish,
12 shellfish, or wildlife; or (iii) licenses, permits, tags, stamps, or
13 catch record cards required by this title or Title 75 RCW.

14 (2) Unlawfully avoiding wildlife check stations or field
15 inspections is a gross misdemeanor.

16 (3) Wildlife check stations may not be established upon interstate
17 highways or state routes.

18 NEW SECTION. Sec. 30. UNLAWFUL USE OF DOGS--PUBLIC NUISANCE. (1)
19 A person is guilty of unlawful use of dogs if the person:

20 (a) Negligently fails to prevent a dog under the person's control
21 from pursuing or injuring deer, elk, or an animal classified as
22 endangered under this title;

23 (b) Uses the dog to hunt deer or elk; or

24 (c) During the closed season for a species of game animal or game
25 bird, negligently fails to prevent the dog from pursuing such animal or
26 destroying the nest of a game bird.

27 (2) Unlawful use of dogs is a misdemeanor. A dog that is the basis
28 for a violation of this section may be declared a public nuisance.

29 NEW SECTION. Sec. 31. UNLAWFUL RELEASE OF FISH OR WILDLIFE.

30 (1)(a) A person is guilty of unlawfully releasing, planting, or placing
31 fish or wildlife if the person knowingly releases, plants, or places
32 live fish, wildlife, or aquatic plants within the state, except for a
33 release of game fish into private waters for which a game fish stocking
34 permit has been obtained or the planting of food fish or shellfish by
35 permit of the commission.

1 (b) A violation of this subsection is a gross misdemeanor. In
2 addition, the department shall order the person to pay all costs the
3 department incurred in capturing, killing, or controlling the fish or
4 wildlife released or its progeny. This does not affect the existing
5 authority of the department to bring a separate civil action to recover
6 costs of capturing, killing, controlling the fish or wildlife released
7 or their progeny, or restoration of habitat necessitated by the
8 unlawful release.

9 (2)(a) A person is guilty of unlawful release of deleterious exotic
10 wildlife if the person knowingly releases, plants, or places live fish
11 or wildlife within the state and such fish or wildlife has been
12 classified as deleterious exotic wildlife by rule of the commission.

13 (b) A violation of this subsection is a class C felony. In
14 addition, the department shall also order the person to pay all costs
15 the department incurred in capturing, killing, or controlling the fish
16 or wildlife released or its progeny. This does not affect the existing
17 authority of the department to bring a separate civil action to recover
18 costs of capturing, killing, controlling the fish or wildlife released
19 or their progeny, or restoration of habitat necessitated by the
20 unlawful release.

21 NEW SECTION. **Sec. 32.** ENGAGING IN COMMERCIAL WILDLIFE ACTIVITY
22 WITHOUT A LICENSE. (1) A person is guilty of engaging in commercial
23 wildlife activity without a license if the person:

24 (a) Deals in raw furs for commercial purposes and does not hold a
25 fur dealer license required by chapter 77.32 RCW;

26 (b) Practices taxidermy for profit and does not hold a taxidermy
27 license required by chapter 77.32 RCW; or

28 (c) Operates a game farm without a license required by chapter
29 77.32 RCW.

30 (2) Engaging in commercial wildlife activities without a license is
31 a gross misdemeanor.

32 NEW SECTION. **Sec. 33.** UNLAWFUL USE OF A COMMERCIAL WILDLIFE
33 LICENSE. (1) A person who holds a fur buyer's license or taxidermy
34 license is guilty of unlawful use of a commercial wildlife license if
35 the person:

36 (a) Fails to have the license in possession while engaged in fur
37 buying or practicing taxidermy for commercial purposes; or

1 (b) Violates any rule of the department regarding the use,
2 possession, display, or presentation of the taxidermy or fur buyer's
3 license.

4 (2) Unlawful use of a commercial wildlife license is a misdemeanor.

5 NEW SECTION. **Sec. 34.** UNLAWFUL TRAPPING. (1) A person is guilty
6 of unlawful trapping if the person:

7 (a) Sets out traps that are capable of taking wild animals, game
8 animals, or furbearing mammals and does not possess all licenses, tags,
9 or permits required under this title; or

10 (b) Violates any rule of the commission or director regarding
11 seasons, bag or possession limits, closed areas including game
12 reserves, closed times, or any other rule governing the trapping of
13 wild animals.

14 (2) Unlawful trapping is a misdemeanor.

15 NEW SECTION. **Sec. 35.** COMMERCIAL FISHING WITHOUT A LICENSE. (1)
16 A person is guilty of commercial fishing without a license in the
17 second degree if the person fishes for, takes, or delivers food fish,
18 shellfish, or game fish while acting for commercial purposes and:

19 (a) The person does not hold a fishery license or delivery license
20 under chapter 75.28 RCW for the food fish or shellfish; or

21 (b) The person is not a licensed operator designated as an
22 alternate operator on a fishery or delivery license under chapter 75.28
23 RCW for the food fish or shellfish.

24 (2) A person is guilty of commercial fishing without a license in
25 the first degree if the person commits the act described by subsection
26 (1) of this section and:

27 (a) The violation involves taking, delivery, or possession of food
28 fish or shellfish with a value of two hundred fifty dollars or more;
29 or

30 (b) The violation involves taking, delivery, or possession of food
31 fish or shellfish from an area that was closed to the taking of such
32 food fish or shellfish by any statute or rule.

33 (3)(a) Commercial fishing without a license in the second degree is
34 a gross misdemeanor.

35 (b) Commercial fishing without a license in the first degree is a
36 class C felony.

1 NEW SECTION. **Sec. 36.** COMMERCIAL FISH GUIDING OR CHARTERING
2 WITHOUT A LICENSE. (1) A person is guilty of commercial fish guiding
3 or chartering without a license if:

4 (a) The person operates a charter boat and does not hold the
5 charter boat license required for the food fish taken;

6 (b) The person acts as a professional salmon guide and does not
7 hold a professional salmon guide license; or

8 (c) The person acts as a game fish guide and does not hold a
9 professional game fish guide license.

10 (2) Commercial fish guiding or chartering without a license is a
11 gross misdemeanor.

12 NEW SECTION. **Sec. 37.** COMMERCIAL FISHING USING UNLAWFUL GEAR OR
13 METHODS. (1) A person is guilty of commercial fishing using unlawful
14 gear or methods if the person acts for commercial purposes and takes or
15 fishes for any fish or shellfish using any gear or method in violation
16 of a rule of the department specifying, regulating, or limiting the
17 gear or method for taking, fishing, or harvesting of such fish or
18 shellfish.

19 (2) Commercial fishing using unlawful gear or methods is a gross
20 misdemeanor.

21 NEW SECTION. **Sec. 38.** UNLAWFUL USE OF A NONDESIGNATED VESSEL.
22 (1) A person who holds a fishery license required by chapter 75.28 RCW,
23 or who holds an operator's license and is designated as an alternate
24 operator on a fishery license required by chapter 75.28 RCW, is guilty
25 of unlawful use of a nondesignated vessel if the person takes, fishes
26 for, or delivers from that fishery using a vessel not designated on the
27 person's license, when vessel designation is required by chapter 75.28
28 RCW.

29 (2) Unlawful use of a nondesignated vessel is a gross misdemeanor.

30 (3) A nondesignated vessel may be used, subject to appropriate
31 notification to the department and in accordance with rules established
32 by the commission, when a designated vessel is inoperative because of
33 accidental damage or mechanical breakdown.

34 (4) If the person commits the act described by subsection (1) of
35 this section and the vessel designated on the person's fishery license
36 was used by any person in the fishery on the same day, then the
37 violation for using a nondesignated vessel is a class C felony. Upon

1 conviction the department shall order revocation and suspension of all
2 commercial fishing privileges under chapter 75.28 RCW for a period of
3 one year.

4 NEW SECTION. **Sec. 39.** UNLAWFUL USE OF A COMMERCIAL FISHERY
5 LICENSE. (1) A person who holds a fishery license required by chapter
6 75.28 RCW, or who holds an operator's license and is designated as an
7 alternate operator on a fishery license required by chapter 75.28 RCW,
8 is guilty of unlawful use of a commercial fishery license if the
9 person:

10 (a) Does not have the commercial fishery license or operator's
11 license in possession during fishing or delivery; or

12 (b) Violates any rule of the department regarding the use,
13 possession, display, or presentation of the person's license, decals,
14 or vessel numbers.

15 (2) Unlawful use of a commercial fishery license is a misdemeanor.

16 NEW SECTION. **Sec. 40.** VIOLATION OF COMMERCIAL FISHING AREA OR
17 TIME. (1) A person is guilty of violating commercial fishing area or
18 time in the second degree if the person acts for commercial purposes
19 and takes, fishes for, delivers, or receives food fish or shellfish:

20 (a) At a time not authorized by statute or rule; or

21 (b) From an area that was closed to the taking of such food fish or
22 shellfish for commercial purposes by statute or rule.

23 (2) A person is guilty of violating commercial fishing area or time
24 in the first degree if the person commits the act described by
25 subsection (1) of this section and:

26 (a) The person acted with knowledge that the area or time was not
27 open to the taking or fishing of food fish or shellfish for commercial
28 purposes; and

29 (b) The violation involved two hundred fifty dollars or more worth
30 of food fish or shellfish.

31 (3)(a) Violating commercial fishing area or time in the second
32 degree is a gross misdemeanor.

33 (b) Violating commercial fishing area or time in the first degree
34 is a class C felony.

35 NEW SECTION. **Sec. 41.** FAILURE TO REPORT COMMERCIAL FISH HARVEST
36 OR DELIVERY. (1) Except as provided in section 45 of this act, a

1 person is guilty of failing to report a commercial fish or shellfish
2 harvest or delivery if the person acts for commercial purposes and
3 takes or delivers any fish or shellfish, and the person:

4 (a) Fails to sign a fish-receiving ticket that documents the
5 delivery of fish or shellfish or otherwise documents the taking or
6 delivery; or

7 (b) Fails to report or document the taking, landing, or delivery as
8 required by any rule of the department.

9 (2) Failing to report a commercial fish harvest or delivery is a
10 gross misdemeanor.

11 (3) For purposes of this section, "delivery" of fish or shellfish
12 occurs when there is a transfer or conveyance of title or control from
13 the person who took, fished for, or otherwise harvested the fish or
14 shellfish.

15 NEW SECTION. **Sec. 42.** UNLAWFUL TRAFFICKING IN FISH OR WILDLIFE.

16 (1) A person is guilty of unlawful trafficking in fish or wildlife in
17 the second degree if the person traffics in fish or wildlife with a
18 wholesale value of less than two hundred fifty dollars and:

19 (a) The fish or wildlife is classified as game, food fish,
20 shellfish, game fish, or protected wildlife and the trafficking is not
21 authorized by statute or rule of the department; or

22 (b) The fish or wildlife is unclassified and the trafficking
23 violates any rule of the department.

24 (2) A person is guilty of unlawful trafficking in fish or wildlife
25 in the first degree if the person commits the act described by
26 subsection (1) of this section and:

27 (a) The fish or wildlife has a value of two hundred fifty dollars
28 or more; or

29 (b) The fish or wildlife is designated as endangered or deleterious
30 exotic wildlife and such trafficking is not authorized by any statute
31 or rule of the department.

32 (3)(a) Unlawful trafficking in fish or wildlife in the second
33 degree is a gross misdemeanor.

34 (b) Unlawful trafficking in fish or wildlife in the first degree is
35 a class C felony.

1 NEW SECTION. **Sec. 43.** ENGAGING IN FISH DEALING ACTIVITY WITHOUT
2 A LICENSE. (1) A person is guilty of engaging in fish dealing activity
3 without a license in the second degree if the person:

4 (a) Engages in the commercial processing of fish or shellfish,
5 including custom canning or processing of personal use fish or
6 shellfish and does not hold a wholesale dealer's license required by
7 RCW 75.28.300(1) or 77.32.211 for anadromous game fish;

8 (b) Engages in the wholesale selling, buying, or brokering of food
9 fish or shellfish and does not hold a wholesale dealer's or buying
10 license required by RCW 75.28.300(2) or 77.32.211 for anadromous game
11 fish;

12 (c) Is a fisher who lands and sells his or her catch or harvest in
13 the state to anyone other than a licensed wholesale dealer within or
14 outside the state and does not hold a wholesale dealer's license
15 required by RCW 75.28.300(3) or 77.32.211 for anadromous game fish; or

16 (d) Engages in the commercial manufacture or preparation of
17 fertilizer, oil, meal, caviar, fish bait, or other byproducts from food
18 fish or shellfish and does not hold a wholesale dealer's license
19 required by RCW 75.28.300(4) or 77.32.211 for anadromous game fish.

20 (2) Engaging in fish dealing activity without a license in the
21 second degree is a gross misdemeanor.

22 (3) A person is guilty of engaging in fish dealing activity without
23 a license in the first degree if the person commits the act described
24 by subsection (1) of this section and the violation involves fish or
25 shellfish worth two hundred fifty dollars or more. Engaging in fish
26 dealing activity without a license in the first degree is a class C
27 felony.

28 NEW SECTION. **Sec. 44.** UNLAWFUL USE OF FISH BUYING AND DEALING
29 LICENSES. (1) A person who holds a fish dealer's license required by
30 RCW 75.28.300, an anadromous game fish buyer's license required by RCW
31 77.32.211, or a fish buyer's license required by RCW 75.28.340 is
32 guilty of unlawful use of fish buying and dealing licenses in the
33 second degree if the person:

34 (a) Possesses or receives fish or shellfish for commercial purposes
35 worth less than two hundred fifty dollars; and

36 (b) Fails to document such fish or shellfish with a fish-receiving
37 ticket required by statute or rule of the department.

1 (2) A person is guilty of unlawful use of fish buying and dealing
2 licenses in the first degree if the person commits the act described by
3 subsection (1) of this section and:

4 (a) The violation involves fish or shellfish worth two hundred
5 fifty dollars or more;

6 (b) The person acted with knowledge that the fish or shellfish were
7 taken from a closed area, at a closed time, or by a person not licensed
8 to take such fish or shellfish for commercial purposes; or

9 (c) The person acted with knowledge that the fish or shellfish were
10 taken in violation of any tribal law.

11 (3)(a) Unlawful use of fish buying and dealing licenses in the
12 second degree is a gross misdemeanor.

13 (b) Unlawful use of fish buying and dealing licenses in the first
14 degree is a class C felony. Upon conviction, the department shall
15 suspend all privileges to engage in fish buying or dealing for two
16 years.

17 NEW SECTION. **Sec. 45.** VIOLATING RULES GOVERNING WHOLESALE FISH
18 BUYING AND DEALING. (1) A person who holds a wholesale fish dealer's
19 license required by RCW 75.28.300, an anadromous game fish buyer's
20 license required by RCW 77.32.211, or a fish buyer's license required
21 by RCW 75.28.340 is guilty of violating rules governing wholesale fish
22 buying and dealing if the person:

23 (a) Fails to possess or display his or her license when engaged in
24 any act requiring the license;

25 (b) Fails to display or uses the license in violation of any rule
26 of the department;

27 (c) Files a signed fish-receiving ticket but fails to provide all
28 information required by rule of the department; or

29 (d) Violates any other rule of the department regarding wholesale
30 fish buying and dealing.

31 (2) Violating rules governing wholesale fish buying and dealing is
32 a gross misdemeanor.

33 NEW SECTION. **Sec. 46.** PROVIDING FALSE INFORMATION REGARDING FISH
34 OR WILDLIFE. (1) A person is guilty of providing false information
35 regarding fish or wildlife if the person knowingly provides false or
36 misleading information required by any statute or rule to be provided

1 to the department regarding the taking, delivery, possession,
2 transportation, sale, transfer, or any other use of fish or wildlife.

3 (2) Providing false information regarding fish or wildlife is a
4 gross misdemeanor.

5 NEW SECTION. **Sec. 47.** VIOLATING RULES REQUIRING REPORTING OF FISH
6 OR WILDLIFE HARVEST. (1) A person is guilty of violating rules
7 requiring reporting of fish or wildlife harvest if the person:

8 (a) Fails to make a harvest log report of a commercial fish or
9 shellfish catch in violation of any rule of the commission or the
10 director;

11 (b) Fails to maintain a trapper's report or taxidermist ledger in
12 violation of any rule of the commission or the director;

13 (c) Fails to submit any portion of a big game animal for a required
14 inspection required by rule of the commission or the director; or

15 (d) Fails to return a catch record card or wildlife harvest report
16 to the department as required by rule of the commission or director.

17 (2) Violating rules requiring reporting of fish or wildlife harvest
18 is a misdemeanor.

19 NEW SECTION. **Sec. 48.** UNLAWFUL TRANSPORTATION OF FISH OR
20 WILDLIFE. (1) A person is guilty of unlawful transportation of fish or
21 wildlife in the second degree if the person:

22 (a) Knowingly imports, moves within the state, or exports fish or
23 wildlife in violation of any rule of the commission or the director
24 governing the transportation or movement of fish or wildlife and the
25 transportation does not involve big game, endangered fish or wildlife,
26 deleterious exotic wildlife, or fish or wildlife having a value greater
27 than two hundred fifty dollars; or

28 (b) Possesses but fails to affix or notch a big game transport tag
29 as required by rule of the commission or director.

30 (2) A person is guilty of unlawful transportation of fish or
31 wildlife in the first degree if the person:

32 (a) Knowingly imports, moves within the state, or exports fish or
33 wildlife in violation of any rule of the commission or the director
34 governing the transportation or movement of fish or wildlife and the
35 transportation involves big game, endangered fish or wildlife,
36 deleterious exotic wildlife, or fish or wildlife with a value of two
37 hundred fifty dollars or more; or

1 (b) Knowingly transports shellfish, shellstock, or equipment used
2 in commercial culturing, taking, handling, or processing shellfish
3 without a permit required by authority of this title.

4 (3)(a) Unlawful transportation of fish or wildlife in the second
5 degree is a misdemeanor.

6 (b) Unlawful transportation of fish or wildlife in the first degree
7 is a gross misdemeanor.

8 **Sec. 49.** RCW 75.12.320 and 1983 1st ex.s. c 46 s 63 are each
9 amended to read as follows:

10 (1) Except as provided in subsection (~~((2))~~) (3) of this section,
11 it is unlawful for a person who is not a treaty Indian fisherman to
12 participate in the taking of (~~((food))~~) fish or shellfish in a treaty
13 Indian fishery, or to be on board a vessel, or associated equipment,
14 operating in a treaty Indian fishery. A violation of this subsection
15 is a gross misdemeanor.

16 (2) A person who violates subsection (1) of this section with the
17 intent of acting for commercial purposes, including any sale of catch,
18 control of catch, profit from catch, or payment for fishing assistance,
19 is guilty of a class C felony. Upon conviction, the department shall
20 order revocation of any license and a one-year suspension of all
21 commercial fishing privileges requiring a license under chapter 75.28
22 or 75.30 RCW.

23 (3)(a) The spouse, forebears, siblings, children, and grandchildren
24 of a treaty Indian fisherman may assist the fisherman in exercising
25 treaty Indian fishing rights when the treaty Indian fisherman is
26 present at the fishing site.

27 (b) Other treaty Indian fishermen with off-reservation treaty
28 fishing rights in the same usual and accustomed places, whether or not
29 the fishermen are members of the same tribe or another treaty tribe,
30 may assist a treaty Indian fisherman in exercising treaty Indian
31 fishing rights when the treaty Indian fisherman is present at the
32 fishing site.

33 (c) Biologists approved by the department may be on board a vessel
34 operating in a treaty Indian fishery.

35 (~~((3))~~) (4) For the purposes of this section:

36 (a) "Treaty Indian fisherman" means a person who may exercise
37 treaty Indian fishing rights as determined under United States v.
38 Washington, 384 F. Supp. 312 (W.D. Wash. 1974), or Sohappay v. Smith,

1 302 F. Supp. 899 (D. Oregon 1969), and post-trial orders of those
2 courts;

3 (b) "Treaty Indian fishery" means a fishery open to only treaty
4 Indian fishermen by tribal or federal regulation;

5 (c) "To participate" and its derivatives mean an effort to operate
6 a vessel or fishing equipment, provide immediate supervision in the
7 operation of a vessel or fishing equipment, or otherwise assist in the
8 fishing operation, ~~((or))~~ to claim possession of a share of the catch,
9 or to represent that the catch was lawfully taken in an Indian fishery.

10 ~~((+4))~~ (5) A violation of this section ~~((involving salmon))~~
11 constitutes illegal fishing and is subject to the ~~((sanctions provided~~
12 ~~under RCW 75.10.130))~~ suspensions provided for commercial fishing
13 violations.

14 NEW SECTION. Sec. 50. UNLAWFUL USE OF NETS TO TAKE FISH. (1) A
15 person is guilty of unlawful use of a net to take fish in the second
16 degree if the person:

17 (a) Lays, sets, uses, or controls a net or other device or
18 equipment capable of taking fish from the waters of this state, except
19 if the person has a valid license for such fishing gear from the
20 director under this title and is acting in accordance with all rules of
21 the commission and director; or

22 (b) Fails to return unauthorized fish to the water immediately
23 while otherwise lawfully operating a net under a valid license.

24 (2) A person is guilty of unlawful use of a net to take fish in the
25 first degree if the person:

26 (a) Commits the act described by subsection (1) of this section;
27 and

28 (b) The violation occurs within five years of entry of a prior
29 conviction for a gross misdemeanor or felony under this title or Title
30 75 RCW involving fish, other than a recreational fishing violation, or
31 involving unlawful use of nets.

32 (3)(a) Unlawful use of a net to take fish in the second degree is
33 a gross misdemeanor. Upon conviction, the department shall revoke any
34 license held under this title or Title 75 RCW allowing commercial net
35 fishing used in connection with the crime.

36 (b) Unlawful use of a net to take fish in the first degree is a
37 class C felony. Upon conviction, the department shall order a one-year

1 suspension of all commercial fishing privileges requiring a license
2 under this title or Title 75 RCW.

3 (4) Notwithstanding subsections (1) and (2) of this section, it is
4 lawful to use a landing net to land fish otherwise legally hooked.

5 NEW SECTION. **Sec. 51.** UNLAWFUL USE OF COMMERCIAL FISHING VESSEL
6 FOR RECREATIONAL OR CHARTER FISHING. (1) A person is guilty of
7 unlawful use of a commercial fishing vessel, except as may be
8 authorized by rule of the commission, for recreational or charter
9 fishing if the person uses, operates, or controls a vessel on the same
10 day for both:

11 (a) Charter or recreational fishing; and

12 (b) Commercial fishing or shellfish harvesting.

13 (2) Unlawful use of a commercial fishing vessel for recreational or
14 charter fishing is a gross misdemeanor.

15 NEW SECTION. **Sec. 52.** UNLAWFUL HYDRAULIC PROJECT ACTIVITIES. (1)
16 A person is guilty of unlawfully undertaking hydraulic project
17 activities if the person constructs any form of hydraulic project or
18 performs other work on a hydraulic project and:

19 (a) Fails to have a hydraulic project approval required under
20 chapter 75.20 RCW for such construction or work; or

21 (b) Violates any requirements or conditions of the hydraulic
22 project approval for such construction or work.

23 (2) Unlawfully undertaking hydraulic project activities is a gross
24 misdemeanor.

25 NEW SECTION. **Sec. 53.** UNLAWFUL FAILURE TO USE OR MAINTAIN
26 APPROVED FISH GUARD ON WATER DIVERSION DEVICE. (1) A person is guilty
27 of unlawful failure to use or maintain an approved fish guard on a
28 diversion device if the person owns, controls, or operates a device
29 used for diverting or conducting water from a lake, river, or stream
30 and:

31 (a) The device is not equipped with a fish guard, screen, or bypass
32 approved by the director as required by RCW 75.20.040 or 77.16.220; or

33 (b) The person knowingly fails to maintain or operate an approved
34 fish guard, screen, or bypass so as to effectively screen or prevent
35 fish from entering the intake.

1 (2) Unlawful failure to use or maintain an approved fish guard,
2 screen, or bypass on a diversion device is a gross misdemeanor.
3 Following written notification to the person from the department that
4 there is a violation, each day that a diversion device is operated
5 without an approved or maintained fish guard, screen, or bypass is a
6 separate offense.

7 NEW SECTION. **Sec. 54.** UNLAWFUL FAILURE TO PROVIDE, MAINTAIN, OR
8 OPERATE FISHWAY FOR DAM OR OTHER OBSTRUCTION. (1) A person is guilty
9 of unlawful failure to provide, maintain, or operate a fishway for dam
10 or other obstruction if the person owns, operates, or controls a dam or
11 other obstruction to fish passage on a river or stream and:

12 (a) The dam or obstruction is not provided with a durable and
13 efficient fishway approved by the director as required by RCW
14 75.20.060;

15 (b) Fails to maintain a fishway in efficient operating condition;
16 or

17 (c) Fails to continuously supply a fishway with a sufficient supply
18 of water to allow the free passage of fish.

19 (2) Unlawful failure to provide, maintain, or operate a fishway for
20 dam or other obstruction is a gross misdemeanor. Following written
21 notification to the person from the department that there is a
22 violation, each day of unlawful failure to provide, maintain, or
23 operate a fishway is a separate offense.

24 NEW SECTION. **Sec. 55.** UNLAWFUL USE OF SCIENTIFIC PERMIT. (1) A
25 person is guilty of unlawful use of a scientific permit if the person:

26 (a) Violates any terms or conditions of a scientific permit issued
27 by the director;

28 (b) Buys or sells fish or wildlife taken with a scientific permit;
29 or

30 (c) Violates any rule of the commission or the director applicable
31 to the issuance or use of scientific permits.

32 (2) Unlawful use of a scientific permit is a gross misdemeanor.

33 NEW SECTION. **Sec. 56.** UNLAWFUL HUNTING OR FISHING CONTESTS. (1)
34 A person is guilty of unlawfully holding a hunting or fishing contest
35 if the person:

1 (a) Conducts, holds, or sponsors a hunting contest, a fishing
2 contest involving game fish, or a competitive field trial using live
3 wildlife without the permit required by RCW 77.32.211; or

4 (b) Violates any rule of the commission or the director applicable
5 to a hunting contest, fishing contest involving game fish, or a
6 competitive field trial using live wildlife.

7 (2) Unlawfully holding a hunting or fishing contest is a
8 misdemeanor.

9 NEW SECTION. **Sec. 57.** UNLAWFUL OPERATION OF A GAME FARM. (1) A
10 person is guilty of unlawful operation of a game farm if the person (a)
11 operates a game farm without the license required by RCW 77.32.211; or
12 (b) violates any rule of the commission or the director applicable to
13 game farms under RCW 77.12.570, 77.12.580, and 77.12.590.

14 (2) Unlawful operation of a game farm is a gross misdemeanor.

15 NEW SECTION. **Sec. 58.** VIOLATION OF A RULE REGARDING INSPECTION
16 AND CONTROL OF AQUATIC FARMS. (1) A person is guilty of violating a
17 rule regarding inspection and disease control of aquatic farms if the
18 person:

19 (a) Violates any rule adopted under chapter 75.58 RCW regarding the
20 inspection and disease control program for an aquatic farm; or

21 (b) Fails to register or report production from an aquatic farm as
22 required by chapter 75.58 RCW.

23 (2) A violation of a rule regarding inspection and disease control
24 of aquatic farms is a misdemeanor.

25 NEW SECTION. **Sec. 59.** UNLAWFUL PURCHASE OR USE OF A LICENSE. (1)
26 A person is guilty of unlawful purchase or use of a license in the
27 second degree if the person buys, holds, uses, displays, transfers, or
28 obtains any license, tag, permit, or approval required by this title or
29 Title 75 RCW and the person:

30 (a) Uses false information to buy, hold, use, display, or obtain a
31 license, permit, tag, or approval;

32 (b) Acquires, holds, or buys in excess of one license, permit, or
33 tag for a license year if only one license, permit, or tag is allowed
34 per license year;

35 (c) Uses or displays a license, permit, tag, or approval that was
36 issued to another person;

1 (d) Permits or allows a license, permit, tag, or approval to be
2 used or displayed by another person not named on the license, permit,
3 tag, or approval;

4 (e) Acquires or holds a license while privileges for the license
5 are revoked or suspended.

6 (2) A person is guilty of unlawful purchase or use of a license in
7 the first degree if the person commits the act described by subsection
8 (1) of this section and the person was acting with intent that the
9 license, permit, tag, or approval be used for any commercial purpose.
10 A person is presumed to be acting with such intent if the violation
11 involved obtaining, holding, displaying, or using a license or permit
12 for participation in any commercial fishery issued under this title or
13 Title 75 RCW or a license authorizing fish or wildlife buying,
14 trafficking, or wholesaling.

15 (3)(a) Unlawful purchase or use of a license in the second degree
16 is a gross misdemeanor. Upon conviction, the department shall revoke
17 any unlawfully used or held licenses and order a two-year suspension of
18 participation in the activities for which the person unlawfully
19 obtained, held, or used a license.

20 (b) Unlawful purchase or use of a license in the first degree is a
21 class C felony. Upon conviction, the department shall revoke any
22 unlawfully used or held licenses and order a five-year suspension of
23 participation in any activities for which the person unlawfully
24 obtained, held, or used a license.

25 (4) For purposes of this section, a person "uses" a license,
26 permit, tag, or approval if the person engages in any activity
27 authorized by the license, permit, tag, or approval held or possessed
28 by the person. Such uses include but are not limited to fishing,
29 hunting, taking, trapping, delivery or landing fish or wildlife, and
30 selling, buying, or wholesaling of fish or wildlife.

31 (5) Any license obtained in violation of this section is void upon
32 issuance and is of no legal effect.

33 NEW SECTION. **Sec. 60.** UNLAWFUL HUNTING OR FISHING WHEN PRIVILEGES
34 ARE REVOKED OR SUSPENDED. (1) A person is guilty of unlawful hunting
35 or fishing when privileges are revoked or suspended in the second
36 degree if the person hunts or fishes and the person's privilege to
37 engage in such hunting or fishing were revoked or suspended by any
38 court or the department.

1 (2) A person is guilty of unlawful hunting or fishing when
2 privileges are revoked or suspended in the first degree if the person
3 commits the act described by subsection (1) of this section and:

4 (a) The suspension of privileges that was violated was a permanent
5 suspension;

6 (b) The person takes or possesses more than two hundred fifty
7 dollars' worth of unlawfully taken food fish, wildlife, game fish,
8 seaweed, or shellfish; or

9 (c) The violation involves the hunting, taking, or possession of
10 fish or wildlife classified as endangered or threatened or big game.

11 (3)(a) Unlawful hunting or fishing when privileges are revoked or
12 suspended in the second degree is a gross misdemeanor. Upon
13 conviction, the department shall order permanent suspension of the
14 person's privileges to engage in such hunting or fishing activities.

15 (b) Unlawful hunting or fishing when privileges are revoked or
16 suspended in the first degree is a class C felony. Upon conviction,
17 the department shall order permanent suspension of all privileges to
18 hunt, fish, trap, or take wildlife, food fish, or shellfish.

19 (4) As used in this section, hunting includes trapping with a
20 trapping license.

21 NEW SECTION. **Sec. 61.** UNLAWFUL INTERFERING IN DEPARTMENT
22 OPERATIONS. (1) A person is guilty of unlawful interfering in
23 department operations if the person prevents department employees from
24 carrying out duties authorized by this title or Title 75 RCW, including
25 but not limited to interfering in the operation of department vehicles,
26 vessels, or aircraft.

27 (2) Unlawful interfering in department operations is a gross
28 misdemeanor.

29 NEW SECTION. **Sec. 62.** CRIMINAL WILDLIFE PENALTY ASSESSMENT FOR
30 ILLEGALLY TAKEN OR POSSESSED WILDLIFE. (1) If a person is convicted of
31 violating section 10 of this act and that violation results in the
32 death of wildlife listed in this section, the court shall require
33 payment of the following amounts for each animal killed or possessed.
34 This shall be a criminal wildlife penalty assessment that shall be paid
35 to the clerk of the court and distributed each month to the state
36 treasurer for deposit in the public safety and education account.

- 1 (a) Moose, mountain sheep, mountain goat, and all wildlife
- 2 species classified as endangered by rule of the commission,
- 3 except for mountain caribou and grizzly bear as listed under
- 4 (d) of this subsection \$ 4,000
- 5 (b) Elk, deer, black bear, and cougar \$ 2,000
- 6 (c) Trophy animal elk and deer \$ 6,000
- 7 (d) Mountain caribou, grizzly bear, and trophy animal mountain
- 8 sheep \$12,000

9 (2) No forfeiture of bail may be less than the amount of the bail
 10 established for hunting during closed season plus the amount of the
 11 criminal wildlife penalty assessment in subsection (1) of this section.

12 (3) For the purpose of this section a "trophy animal" is:

- 13 (a) A buck deer with four or more antler points on both sides, not
- 14 including eyeguards;
- 15 (b) A bull elk with five or more antler points on both sides, not
- 16 including eyeguards; or
- 17 (c) A mountain sheep with a horn curl of three-quarter curl or
- 18 greater.

19 For purposes of this subsection, "eyeguard" means an antler
 20 protrusion on the main beam of the antler closest to the eye of the
 21 animal.

22 (4) If two or more persons are convicted of illegally possessing
 23 wildlife in subsection (1) of this section, the criminal wildlife
 24 penalty assessment shall be imposed on them jointly and separately.

25 (5) The criminal wildlife penalty assessment shall be imposed
 26 regardless of and in addition to any sentence, fines, or costs
 27 otherwise provided for violating any provision of this title. The
 28 criminal wildlife penalty assessment shall be included by the court in
 29 any pronouncement of sentence and may not be suspended, waived,
 30 modified, or deferred in any respect. This section may not be
 31 construed to abridge or alter alternative rights of action or remedies
 32 in equity or under common law or statutory law, criminal or civil.

33 (6) A defaulted criminal wildlife penalty assessment may be
 34 collected by any means authorized by law for the enforcement of orders
 35 of the court or collection of a fine or costs, including but not
 36 limited to vacation of a deferral of sentencing or vacation of a
 37 suspension of sentence.

38 (7) A person assessed a criminal wildlife penalty assessment under
 39 this section shall have his or her hunting license revoked and all

1 hunting privileges suspended until the penalty assessment is paid
2 through the registry of the court in which the penalty assessment was
3 assessed.

4 NEW SECTION. **Sec. 63.** DISPOSITION OF FORFEITED WILDLIFE AND
5 ARTICLES. (1) Unless otherwise provided in this title or Title 75 RCW,
6 fish, shellfish, or wildlife unlawfully taken or possessed, or involved
7 in a violation shall be forfeited to the state upon conviction. Unless
8 already held by, sold, destroyed, or disposed of by the department, the
9 court shall order such fish or wildlife to be delivered to the
10 department. Where delay will cause loss to the value of the property
11 and a ready wholesale buying market exists, the department may sell
12 property to a wholesale buyer at a fair market value.

13 (2) The department may use, sell, or destroy any other property
14 forfeited by the court or the department. Any sale of other property
15 shall be at public auction or after public advertisement reasonably
16 designed to obtain the highest price. The time, place, and manner of
17 holding the sale shall be determined by the director. The director may
18 contract for the sale to be through the department of general
19 administration as state surplus property, or, except where not
20 justifiable by the value of the property, the director shall publish
21 notice of the sale once a week for at least two consecutive weeks
22 before the sale in at least one newspaper of general circulation in the
23 county in which the sale is to be held. Proceeds of the sale shall be
24 deposited in the state treasury to be credited to the state wildlife
25 fund.

26 NEW SECTION. **Sec. 64.** DEPARTMENT AUTHORITY TO REVOKE LICENSES.
27 (1) Upon any conviction of any violation of this chapter, the
28 department may revoke any license, tag, or stamp, or other permit
29 involved in the violation or held by the person convicted, in addition
30 to other penalties provided by law.

31 (2) If the department orders that a license, tag, stamp, or other
32 permit be revoked, that order is effective upon entry of the order and
33 any such revoked license, tag, stamp, or other permit is void as a
34 result of such order of revocation. The department shall order such
35 license, tag, stamp, or other permit turned over to the department, and
36 shall order the person not to acquire a replacement or duplicate for
37 the remainder of the period for which the revoked license, tag, stamp,

1 or other permit would have been valid. During this period when a
2 license is revoked, the person is subject to punishment under this
3 chapter. If the person appeals the sentence by the court, the
4 revocation shall be effective during the appeal.

5 (3) If an existing license, tag, stamp, or other permit is voided
6 and revoked under this chapter, the department and its agents shall not
7 be required to refund or restore any fees, costs, or money paid for the
8 license, nor shall any person have any right to bring a collateral
9 appeal under chapter 34.05 RCW to attack the department order.

10 NEW SECTION. **Sec. 65.** DEPARTMENT AUTHORITY TO SUSPEND
11 PRIVILEGES--FORM AND PROCEDURE. (1) If any crime in this chapter is
12 punishable by a suspension of privileges, then the department shall
13 issue an order that specifies the privileges suspended and period when
14 such suspension shall begin and end. The department has no authority
15 to issue licenses, permits, tags, or stamps for the suspended activity
16 until the suspension ends and any license, tag, stamp, or other
17 permission obtained in violation of an order of suspension is void and
18 ineffective.

19 (2) A court sentence may include a suspension of privileges only if
20 grounds are provided by statute. There is no right to seek
21 reinstatement of privileges from the department during a period of
22 court-ordered suspension.

23 (3) If this chapter makes revocation or suspension of privileges
24 mandatory, then the department shall impose the punishment in addition
25 to any other punishments authorized by law.

26 NEW SECTION. **Sec. 66.** GROUNDS FOR DEPARTMENT REVOCATION AND
27 SUSPENSION OF PRIVILEGES. The department shall impose revocation and
28 suspension of privileges upon conviction in the following
29 circumstances:

30 (1) If directed by statute for an offense;

31 (2) If the department finds that actions of the defendant
32 demonstrated a willful or wanton disregard for conservation of fish or
33 wildlife. Such suspension of privileges may be permanent;

34 (3) If a person is convicted twice within ten years for a violation
35 involving unlawful hunting, killing, or possessing big game, the
36 department shall order revocation and suspension of all hunting
37 privileges for two years. RCW 77.16.020 or 77.16.050 as it existed

1 before the effective date of this section may comprise one of the
2 convictions constituting the basis for revocation and suspension under
3 this subsection;

4 (4) If a person is convicted three times in ten years of any
5 violation of recreational hunting or fishing laws or rules, the
6 department shall order a revocation and suspension of all recreational
7 hunting and fishing privileges for two years;

8 (5) If a person is convicted twice within five years of a gross
9 misdemeanor or felony involving unlawful commercial fish or shellfish
10 harvesting, buying, or selling, the department shall impose a
11 revocation and suspension of the person's commercial fishing privileges
12 for one year. A commercial fishery license suspended under this
13 subsection may not be used by an alternate operator or transferred
14 during the period of suspension.

15 **Sec. 67.** RCW 77.16.135 and 1995 1st sp.s. c 2 s 43 are each
16 amended to read as follows:

17 (1) The commission shall revoke all licenses and order a ten-year
18 suspension of all privileges extended under ((Title 77 RCW)) the
19 authority of the department of a person convicted of assault on a
20 ((state wildlife agent)) fish and wildlife officer or other law
21 enforcement officer provided that:

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

24 (b) The ((wildlife agent)) fish and wildlife officer or other law
25 enforcement officer was enforcing the provisions of this title ((77
26 RCW)).

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

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

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

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

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

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

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

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

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

37 ~~(a) A determination of guilt by the court;~~

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

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

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

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

17 NEW SECTION. **Sec. 68.** DIRECTOR'S AUTHORITY TO SUSPEND PRIVILEGES.

18 (1) If a person shoots another person or domestic livestock while
19 hunting, the director shall suspend all hunting privileges for three
20 years. If the shooting of another person or livestock is the result of
21 criminal negligence or reckless or intentional conduct, then the
22 person's privileges shall be suspended for ten years. The suspension
23 may be continued beyond these periods if damages owed to the victim or
24 livestock owner have not been paid by the suspended person.

25 (2) If a person commits any assault upon employees, agents, or
26 personnel acting for the department, the director shall suspend hunting
27 or fishing privileges for ten years.

28 (3) Within twenty days of service of an order suspending privileges
29 or imposing conditions under this section, a person may petition for
30 administrative review under chapter 34.05 RCW by serving the director
31 with a petition for review. The order is final and unappealable if
32 there is no timely petition for administrative review.

33 (4) The commission may by rule authorize petitions for
34 reinstatement of administrative suspensions and define circumstances
35 under which reinstatement will be allowed.

36 NEW SECTION. **Sec. 69.** CIVIL FORFEITURE OF PROPERTY USED FOR
37 VIOLATION OF THIS CHAPTER. (1) Fish and wildlife officers and ex

1 officio fish and wildlife officers may seize without warrant boats,
2 airplanes, vehicles, gear, appliances, or other articles they have
3 probable cause to believe have been used in violation of this chapter.
4 However, fish and wildlife officers may not seize any item or article,
5 other than for evidence, if under the circumstances, it is reasonable
6 to conclude that the violation was inadvertent. The property seized is
7 subject to forfeiture to the state under this section regardless of
8 ownership. Property seized may be recovered by its owner by depositing
9 into court a cash bond equal to the value of the seized property but
10 not more than twenty-five thousand dollars. Such cash bond is subject
11 to forfeiture in lieu of the property. Forfeiture of property seized
12 under this section is a civil forfeiture against property intended to
13 be a remedial civil sanction.

14 (2) In the event of a seizure of property under this section,
15 jurisdiction to begin the forfeiture proceedings shall commence upon
16 seizure. Within fifteen days following the seizure, the seizing
17 authority shall serve a written notice of intent to forfeit property on
18 the owner of the property seized and on any person having any known
19 right or interest in the property seized. Notice may be served by any
20 method authorized by law or court rule, including service by certified
21 mail with return receipt requested. Service by mail is deemed complete
22 upon mailing within the fifteen-day period following the seizure.

23 (3) Persons claiming a right of ownership or right to possession of
24 property are entitled to a hearing to contest forfeiture. Such a claim
25 shall specify the claim of ownership or possession and shall be made in
26 writing and served on the director within forty-five days of the
27 seizure. If the seizing authority has complied with notice
28 requirements and there is no claim made within forty-five days, then
29 the property shall be forfeited to the state.

30 (4) If any person timely serves the director with a claim to
31 property, the person shall be afforded an opportunity to be heard as to
32 the person's claim or right. The hearing shall be before the director
33 or director's designee, or before an administrative law judge appointed
34 under chapter 34.12 RCW, except that a person asserting a claim or
35 right may remove the matter to a court of competent jurisdiction if the
36 aggregate value of the property seized is more than five thousand
37 dollars.

38 (5) The hearing to contest forfeiture and any subsequent appeal
39 shall be as provided for in Title 34 RCW. The seizing authority has

1 the burden to demonstrate that it had reason to believe the property
2 was held with intent to violate or was used in violation of this title
3 or rule of the commission or director. The person contesting
4 forfeiture has the burden of production and proof by a preponderance of
5 evidence that the person owns or has a right to possess the property
6 and:

7 (a) That the property was not held with intent to violate or used
8 in violation of this title or Title 75 RCW; or

9 (b) If the property is a boat, airplane, or vehicle, that the
10 illegal use or planned illegal use of the boat, airplane, or vehicle
11 occurred without the owner's knowledge or consent, and that the owner
12 acted reasonably to prevent illegal uses of such boat, airplane, or
13 vehicle.

14 (6) A forfeiture of a conveyance encumbered by a perfected security
15 interest is subject to the interest of the secured party if the secured
16 party neither had knowledge nor consented to the act or omission. No
17 security interest in seized property may be perfected after seizure.

18 (7) If seized property is forfeited under this section the
19 department may retain it for official use unless the property is
20 required to be destroyed, or upon application by any law enforcement
21 agency of the state, release such property to the agency for the use of
22 enforcing this title, or sell such property, and deposit the proceeds
23 to the wildlife fund, as provided for in RCW 77.12.170.

24 **Sec. 70.** RCW 75.08.011 and 1996 c 267 s 2 are each amended to read
25 as follows:

26 As used in this title or Title 77 RCW or rules (~~of the~~
27 ~~department~~) adopted under those titles, unless the context clearly
28 requires otherwise:

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

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

31 (3) "Department" means the department of fish and wildlife.

32 (4) "Person" means an individual or a public or private entity or
33 organization. The term "person" includes local, state, and federal
34 government agencies, and all business organizations, including
35 corporations and partnerships.

36 (5) "~~(Fisheries patrol)~~ Fish and wildlife officer" means a person
37 appointed and commissioned by the commission, with authority to enforce
38 this title, rules of the department, and other statutes as prescribed

1 by the legislature. (~~Fisheries patrol~~) Fish and wildlife officers
2 are peace officers. Fish and wildlife officer includes a person
3 commissioned before the effective date of this section as a fisheries
4 patrol officer.

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

15 (7) "To fish," "to harvest," and "to take" and their derivatives
16 mean an effort to kill, injure, harass, or catch (~~feed~~) fish or
17 shellfish.

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

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

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

27 (11) "Resident" means a person who has maintained a permanent place
28 of abode within the state for at least ninety days immediately
29 preceding an application for a license, has established by formal
30 evidence an intent to continue residing within the state, and who is
31 not licensed to hunt or fish as a resident in another state.

32 (12) "Nonresident" means a person who has not fulfilled the
33 qualifications of a resident.

34 (13) "Food fish" means those species of the classes Osteichthyes,
35 Agnatha, and Chondrichthyes that have been classified and that shall
36 not be fished for except as authorized by rule of the commission. The
37 term "food fish" includes all stages of development and the bodily
38 parts of food fish species.

1 (14) "Shellfish" means those species of marine and freshwater
2 invertebrates that have been classified and that shall not be taken
3 except as authorized by rule of the commission. The term "shellfish"
4 includes all stages of development and the bodily parts of shellfish
5 species.

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

8	Scientific Name	Common Name
9	<i>Oncorhynchus tshawytscha</i>	Chinook salmon
10	<i>Oncorhynchus kisutch</i>	Coho salmon
11	<i>Oncorhynchus keta</i>	Chum salmon
12	<i>Oncorhynchus gorbuscha</i>	Pink salmon
13	<i>Oncorhynchus nerka</i>	Sockeye salmon

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

19 (17) "To process" and its derivatives mean preparing or preserving
20 food fish or shellfish.

21 (18) "Personal use" means for the private use of the individual
22 taking the food fish or shellfish and not for sale or barter.

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

26 (20) "Open season" means those times, manners of taking, and places
27 or waters established by rule of the commission for the lawful fishing,
28 taking, or possession of food fish or shellfish. "Open season"
29 includes the first and last days of the established time.

30 (21) "Fishery" means the taking of one or more particular species
31 of food fish or shellfish with particular gear in a particular
32 geographical area.

33 (22) "Limited-entry license" means a license subject to a license
34 limitation program established in chapter 75.30 RCW.

35 (23) "Seaweed" means marine aquatic plant species that are
36 dependent upon the marine aquatic or tidal environment, and exist in
37 either an attached or free floating form, and includes but is not

1 limited to marine aquatic plants in the classes Chlorophyta,
2 Phaeophyta, and Rhodophyta.

3 (24) "Fish" includes all species classified as game fish or food
4 fish by statute or rule, as well as all fin fish not currently
5 classified as food fish or game fish if such species exist in state
6 waters. The term "fish" includes all stages of development and the
7 bodily parts of fish species.

8 **Sec. 71.** RCW 75.08.160 and 1983 1st ex.s. c 46 s 19 are each
9 amended to read as follows:

10 The director, (~~(fisheries patrol)~~) fish and wildlife officers, ex
11 officio (~~(fisheries patrol)~~) fish and wildlife officers, and department
12 employees may enter upon any land or waters and remain there while
13 performing their duties without liability for trespass.

14 It is lawful for aircraft operated by the department to land and
15 take off from the beaches or waters of the state. (~~(It is unlawful for~~
16 ~~a person to interfere with the operation of these aircraft.)~~)

17 **Sec. 72.** RCW 75.08.274 and 1995 1st sp.s. c 2 s 15 are each
18 amended to read as follows:

19 (~~(Except by permit of)~~) The commission((~~, it is unlawful to~~)) may
20 adopt rules to authorize issuance of permits to take food fish or
21 shellfish for propagation or scientific purposes within state waters.

22 **Sec. 73.** RCW 75.08.295 and 1995 1st sp.s. c 2 s 17 are each
23 amended to read as follows:

24 (~~(Except by permit of)~~) The commission((~~, it is unlawful to~~)) may
25 adopt rules to authorize issuance of permits to release, plant, or
26 place food fish or shellfish in state waters.

27 **Sec. 74.** RCW 75.08.300 and 1985 c 457 s 12 are each amended to
28 read as follows:

29 (~~((1) It is unlawful for any))~~ A person other than the United
30 States, an Indian tribe recognized as such by the federal government,
31 the state, a subdivision of the state, or a municipal corporation or an
32 agency of such a unit of government ((to)) shall not release salmon or
33 steelhead trout into the public waters of the state and subsequently to
34 recapture and commercially harvest such salmon or trout. This section
35 shall not prevent any person from rearing salmon or steelhead trout in

1 pens or in a confined area under circumstances where the salmon or
2 steelhead trout are confined and never permitted to swim freely in open
3 water.

4 (~~(2) A violation of this section constitutes a gross
5 misdemeanor.~~)

6 **Sec. 75.** RCW 75.12.010 and 1995 1st sp.s. c 2 s 25 are each
7 amended to read as follows:

8 (1) (~~Except as provided in this section, it is unlawful to fish
9 commercially for salmon within the waters described in subsection (2)
10 of this section.~~) The commission may authorize commercial fishing for
11 sockeye salmon within the waters described in subsection (2) of this
12 section only during the period June 10th to July 25th and for other
13 salmon only from the second Monday of September through November 30th,
14 except during the hours between 4:00 p.m. of Friday and 4:00 p.m. of
15 the following Sunday.

16 (2) All waters east and south of a line commencing at a concrete
17 monument on Angeles Point in Clallam county near the mouth of the Elwha
18 River on which is inscribed "Angeles Point Monument" (latitude 48½ 9'
19 3"north, longitude 123½ 33' 01" west of Greenwich Meridian); thence
20 running east on a line 81½ 30' true across the flashlight and bell buoy
21 off Partridge Point and thence continued to longitude 122½ 40' west;
22 thence north to the southerly shore of Sinclair Island; thence along
23 the southerly shore of the island to the most easterly point of the
24 island; thence 46½ true to Carter Point, the most southerly point of
25 Lummi Island; thence northwesterly along the westerly shore line of
26 Lummi Island to where the shore line intersects line of longitude 122½
27 40' west; thence north to the mainland, including: The southerly
28 portion of Hale Passage, Bellingham Bay, Padilla Bay, Fidalgo Bay,
29 Guemes Channel, Skagit Bay, Similk Bay, Saratoga Passage, Holmes
30 Harbor, Possession Sound, Admiralty Inlet, Hood Canal, Puget Sound, and
31 their inlets, passages, waters, waterways, and tributaries.

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

37 (4)) The commission may authorize commercial fishing for salmon
38 with gill net gear prior to the second Monday in September within the

1 waters of Hale Passage, Bellingham Bay, Samish Bay, Padilla Bay,
2 Fidalgo Bay, Guemes Channel, Skagit Bay, and Similk Bay, to wit: Those
3 waters northerly and easterly of a line commencing at Stanwood, thence
4 along the south shore of Skagit Bay to Rocky Point on Camano Island;
5 thence northerly to Polnell Point on Whidbey Island.

6 ~~((+5))~~ (4) Whenever the commission determines that a stock or run
7 of salmon cannot be harvested in the usual manner, and that the stock
8 or run of salmon may be in danger of being wasted and surplus to
9 natural or artificial spawning requirements, the commission may
10 authorize units of gill net and purse seine gear in any number or
11 equivalents, by time and area, to fully utilize the harvestable
12 portions of these salmon runs for the economic well being of the
13 citizens of this state. Gill net and purse seine gear other than
14 emergency and test gear authorized by the director shall not be used in
15 Lake Washington.

16 ~~((+6))~~ (5) The commission may authorize commercial fishing for
17 pink salmon in each odd-numbered year from August 1st through September
18 1st in the waters lying inside of a line commencing at the most
19 easterly point of Dungeness Spit and thence projected to Point
20 Partridge on Whidbey Island and a line commencing at Olele Point and
21 thence projected easterly to Bush Point on Whidbey Island.

22 **Sec. 76.** RCW 75.12.015 and 1995 1st sp.s. c 2 s 26 are each
23 amended to read as follows:

24 ~~((Except as provided in this section, it is unlawful to fish
25 commercially for chinook or coho salmon in the Pacific Ocean and the
26 Straits of Juan de Fuca.))~~

27 (1) The commission may authorize commercial fishing for coho salmon
28 in the Pacific Ocean and the Straits of Juan de Fuca only from June
29 16th through October 31st.

30 (2) The commission may authorize commercial fishing for chinook
31 salmon in the Pacific Ocean and the Straits of Juan de Fuca only from
32 March 15th through October 31st.

33 **Sec. 77.** RCW 75.12.040 and 1993 sp.s. c 2 s 27 are each amended to
34 read as follows:

35 (1) ~~((It is unlawful to))~~ A person shall not use, operate, or
36 maintain a gill net which exceeds ~~((250 fathoms))~~ 1500 feet in length

1 or a drag seine in the waters of the Columbia river for catching
2 salmon.

3 (2) (~~It is unlawful to~~) A person shall not construct, install,
4 use, operate, or maintain within state waters a pound net, round haul
5 net, lampara net, fish trap, fish wheel, scow fish wheel, set net,
6 weir, or fixed appliance for catching salmon or steelhead. The
7 director may authorize the use of this gear for scientific
8 investigations.

9 (3) The department, in coordination with the Oregon department of
10 fish and wildlife, shall adopt rules to regulate the use of
11 monofilament in gill net webbing on the Columbia river.

12 **Sec. 78.** RCW 75.12.132 and 1984 c 80 s 5 are each amended to read
13 as follows:

14 (1) (~~It is unlawful to fish for or take salmon commercially with~~
15 ~~a net within the waters of the tributaries and sloughs described in~~
16 ~~subsection (2) of this section which flow into or are connected with~~
17 ~~the Columbia river.~~

18 (2)) The (~~director~~) commission shall adopt rules defining
19 geographical boundaries of the following Columbia river tributaries and
20 sloughs:

- 21 (a) Washougal river;
- 22 (b) Camas slough;
- 23 (c) Lewis river;
- 24 (d) Kalama river;
- 25 (e) Cowlitz river;
- 26 (f) Elokommin river;
- 27 (g) Elokommin sloughs;
- 28 (h) Skamokawa sloughs;
- 29 (i) Grays river;
- 30 (j) Deep river;
- 31 (k) Grays bay.

32 (~~(3)~~) (2) The (~~director~~) commission may authorize commercial
33 net fishing for salmon in the tributaries and sloughs from September
34 1st to November 30th only, if the time, areas, and level of effort are
35 regulated in order to maximize the recreational fishing opportunity
36 while minimizing excess returns of fish to hatcheries. The
37 (~~director~~) commission shall not authorize commercial net fishing if
38 a significant catch of steelhead would occur.

1 **Sec. 79.** RCW 75.12.140 and 1983 1st ex.s. c 46 s 59 are each
2 amended to read as follows:

3 (~~It is unlawful to fish for salmon with~~) The commission shall not
4 authorize use of reef net fishing gear (~~in state waters,~~) except in
5 the reef net areas described in this section.

6 (1) Point Roberts reef net fishing area includes those waters
7 within 250 feet on each side of a line projected 129½ true from a point
8 at longitude 123½ 01' 15" W. latitude 48½ 58' 38" N. to a point one
9 mile distant, as such description is shown upon the United States Coast
10 and Geodetic Survey map numbered 6300, published September, 1941, in
11 Washington, D.C., eleventh edition.

12 (2) Cherry Point reef net fishing area includes those waters inland
13 and inside the 10-fathom line between lines projected 205½ true from
14 points on the mainland at longitude 122½ 44' 54" latitude 48½ 51' 48"
15 and longitude 122½ 44' 18" latitude 48½ 51' 33", a [as] such
16 descriptions are shown upon the United States Coast and Geodetic Survey
17 map numbered 6380, published March, 1947, in Washington, D.C., eighth
18 edition.

19 (3) Lummi Island reef net fishing area includes those waters inland
20 and inside a line projected from Village Point 208½ true to a point 900
21 yards distant, thence 129½ true to the point of intersection with a
22 line projected 259½ true from the shore of Lummi Island 122½ 40' 42"
23 latitude 48½ 41' 32", as such descriptions are shown upon the United
24 States Coast and Geodetic Survey map numbered 6380, published March,
25 1947, in Washington, D.C., eighth edition, revised 11-25-57, save and
26 except that there shall be excluded therefrom all waters lying inside
27 of a line projected 259½ true from a point at 122½ 40' 42" latitude 48½
28 41' 32" to a point 300 yards distant from high tide, thence in a
29 northerly direction to the United States Coast and Geodetic Survey
30 reference mark number 2, 1941-1950, located on that point on Lummi
31 Island known as Lovers Point, as such descriptions are shown upon the
32 United States Coast and Geodetic Survey map number 6380 as aforesaid.
33 The term "Village Point" as used herein shall be construed to mean a
34 point of location on Village Point, Lummi Island, at the mean high tide
35 line on a true bearing of 43½ 53' a distance of 457 feet to the center
36 of the chimney of a wood frame house on the east side of the county
37 road. Said chimney and house being described as Village Point Chimney
38 on page 612 of the United States Coast and Geodetic Survey list of
39 geographic positions No. G-5455, Rosario Strait.

1 (4) Sinclair Island reef net fishing area includes those waters
2 inland and inside a line projected from the northern point of Sinclair
3 Island to Boulder reef, thence 200½ true to the northwesterly point of
4 Sinclair Island, as such descriptions are shown upon the United States
5 Coast and Geodetic Survey map numbered 6380, published March, 1947, in
6 Washington, D.C., eighth edition.

7 (5) Flat Point reef net fishing area includes those waters within
8 a radius of 175 feet of a point off Lopez Island located at longitude
9 122½ 55' 24" latitude 48½ 32' 33", as such description is shown upon
10 the United States Coast and Geodetic Survey map numbered 6380,
11 published March, 1947, in Washington, D.C., eighth edition.

12 (6) Lopez Island reef net fishing area includes those waters within
13 400 yards of shore between lines projected true west from points on the
14 shore of Lopez Island at longitude 122½ 55' 04" latitude 48½ 31' 59"
15 and longitude 122½ 55' 54" latitude 48½ 30' 55", as such descriptions
16 are shown upon the United States Coast and Geodetic Survey map numbered
17 6380, published March, 1947, in Washington, D.C., eighth edition.

18 (7) Iceberg Point reef net fishing area includes those waters
19 inland and inside a line projected from Davis Point on Lopez Island to
20 the west point of Long Island, thence to the southern point of Hall
21 Island, thence to the eastern point at the entrance to Jones Bay, and
22 thence to the southern point at the entrance to Mackaye Harbor on Lopez
23 Island; and those waters inland and inside a line projected 320½ from
24 Iceberg Point light on Lopez Island, a distance of 400 feet, thence
25 easterly to the point on Lopez Island at longitude 122½ 53' 00"
26 latitude 48½ 25' 39", as such descriptions are shown upon the United
27 States Coast and Geodetic Survey map numbered 6380, published March,
28 1947, in Washington, D.C., eighth edition.

29 (8) Aleck Bay reef net fishing area includes those waters inland
30 and inside a line projected from the southwestern point at the entrance
31 to Aleck Bay on Lopez Island at longitude 122½ 51' 11" latitude 48½ 25'
32 14" southeasterly 800 yards to the submerged rock shown on U.S.G.S. map
33 number 6380, thence northerly to the cove on Lopez Island at longitude
34 122½ 50' 49" latitude 48½ 25' 42", as such descriptions are shown upon
35 the United States Coast and Geodetic Survey map numbered 6380,
36 published March, 1947, in Washington, D.C., eighth edition.

37 (9) Shaw Island reef net fishing area number 1 includes those
38 waters within 300 yards of shore between lines projected true south
39 from points on Shaw Island at longitude 122½ 56' 14" latitude 48½ 33'

1 28" and longitude 122½ 57' 29" latitude 48½ 32' 58", as such
2 descriptions are shown upon the United States Coast and Geodetic Survey
3 map numbered 6380, published March, 1947, in Washington, D.C., eighth
4 edition.

5 (10) Shaw Island reef net fishing area number 2 includes those
6 waters inland and inside a line projected from Point George on Shaw
7 Island to the westerly point of Neck Point on Shaw Island, as such
8 description is shown upon the United States Coast and Geodetic Survey
9 map numbered 6380, published March, 1947, in Washington, D.C., eighth
10 edition.

11 (11) Stuart Island reef net fishing area number 1 includes those
12 waters within 600 feet of the shore of Stuart Island between lines
13 projected true east from points at longitude 123½ 10' 47" latitude 48½
14 39' 47" and longitude 123½ 10' 47" latitude 48½ 39' 33", as such
15 descriptions are shown upon the United States Coast and Geodetic Survey
16 map numbered 6380, published March, 1947, in Washington, D.C., eighth
17 edition.

18 (12) Stuart Island reef net fishing area number 2 includes those
19 waters within 250 feet of Gossip Island, also known as Happy Island, as
20 such description is shown upon the United States Coast and Geodetic
21 Survey map numbered 6380, published March, 1947, in Washington, D.C.,
22 eighth edition.

23 (13) Johns Island reef net fishing area includes those waters
24 inland and inside a line projected from the eastern point of Johns
25 Island to the northwestern point of Little Cactus Island, thence
26 northwesterly to a point on Johns Island at longitude 123½ 09' 24"
27 latitude 48½ 39' 59", as such descriptions are shown upon the United
28 States Coast and Geodetic Survey map numbered 6380, published March,
29 1947, in Washington, D.C., eighth edition.

30 (14) Battleship Island reef net fishing area includes those waters
31 lying within 350 feet of Battleship Island, as such description is
32 shown upon the United States Coast and Geodetic Survey map numbered
33 6380, published March, 1947, in Washington, D.C., eighth edition.

34 (15) Open Bay reef net fishing area includes those waters lying
35 within 150 feet of shore between lines projected true east from a point
36 on Henry Island at longitude 123½ 11' 34 1/2" latitude 48½ 35' 27 1/2"
37 at a point 250 feet south, as such descriptions are shown upon the
38 United States Coast and Geodetic Survey map numbered 6380, published
39 March, 1947, in Washington, D.C., eighth edition.

1 (16) Mitchell Reef net fishing area includes those waters within a
2 line beginning at the rock shown on U.S.G.S. map number 6380 at
3 longitude 123° 10' 56" latitude 48° 34' 49 1/2", and projected 50 feet
4 northwesterly, thence southwesterly 250 feet, thence southeasterly 300
5 feet, thence northeasterly 250 feet, thence to the point of beginning,
6 as such descriptions are shown upon the United States Coast and
7 Geodetic Survey map numbered 6380, published March, 1947, in
8 Washington, D.C., eighth edition.

9 (17) Smugglers Cove reef fishing area includes those waters within
10 200 feet of shore between lines projected true west from points on the
11 shore of San Juan Island at longitude 123° 10' 29" latitude 48° 33' 50"
12 and longitude 123° 10' 31" latitude 48° 33' 45", as such descriptions
13 are shown upon the United States Coast and Geodetic Survey map numbered
14 6380, published March, 1947, in Washington, D.C., eighth edition.

15 (18) Andrews Bay reef net fishing area includes those waters lying
16 within 300 feet of the shore of San Juan Island between a line
17 projected true south from a point at the northern entrance of Andrews
18 Bay at longitude 123° 09' 53 1/2" latitude 48° 33' 00" and the cable
19 crossing sign in Andrews Bay, at longitude 123° 09' 45" latitude 48°
20 33' 04", as such descriptions are shown upon the United States Coast
21 and Geodetic Survey map numbered 6380, published March, 1947, in
22 Washington, D.C., eighth edition.

23 (19) Orcas Island reef net fishing area includes those waters
24 inland and inside a line projected true west a distance of 1,000 yards
25 from the shore of Orcas Island at longitude 122° 57' 40" latitude 48°
26 41' 06" thence northeasterly to a point 500 feet true west of Point
27 Doughty, then true east to Point Doughty, as such descriptions are
28 shown upon the United States Coast and Geodetic Survey map numbered
29 6380, published March, 1947, in Washington, D.C., eighth edition.

30 **Sec. 80.** RCW 75.12.210 and 1993 c 20 s 2 are each amended to read
31 as follows:

32 (1) Except as provided in subsection (2) of this section, (~~it is~~
33 ~~unlawful to fish for or take salmon with~~) the commission shall not
34 authorize gear other than troll gear or angling gear for taking salmon
35 within the offshore waters or the waters of the Pacific Ocean over
36 which the state has jurisdiction lying west of the following line:
37 Commencing at the point of intersection of the international boundary
38 line in the Strait of Juan de Fuca and a line drawn between the

1 lighthouse on Tatoosh Island in Clallam County and Bonilla Point on
2 Vancouver Island; thence southerly to the lighthouse on Tatoosh Island;
3 thence southerly to the most westerly point of Cape Flattery; thence
4 southerly along the state shoreline of the Pacific Ocean, crossing any
5 river mouths at their most westerly points of land, to Point Brown at
6 the entrance to Grays Harbor; thence southerly to Point Chehalis Light
7 on Point Chehalis; thence southerly from Point Chehalis along the state
8 shoreline of the Pacific Ocean to the Cape Shoalwater tower at the
9 entrance to Willapa Bay; thence southerly to Leadbetter Point; thence
10 southerly along the state shoreline of the Pacific Ocean to the inshore
11 end of the North jetty at the entrance to the Columbia River; thence
12 southerly to the knuckle of the South jetty at the entrance to said
13 river.

14 (2) The (~~director~~) commission may authorize the use of nets for
15 taking salmon in the waters described in subsection (1) of this section
16 for scientific investigations.

17 **Sec. 81.** RCW 75.12.230 and 1983 1st ex.s. c 46 s 61 are each
18 amended to read as follows:

19 Within the waters described in RCW 75.12.210, (~~it is unlawful to~~)
20 a person shall not transport or possess salmon on board a vessel
21 carrying fishing gear of a type other than troll lines or angling gear,
22 unless accompanied by a certificate issued by a state or country
23 showing that the salmon have been lawfully taken within the territorial
24 waters of the state or country.

25 **Sec. 82.** RCW 75.12.390 and 1989 c 172 s 1 are each amended to read
26 as follows:

27 The commission shall not authorize commercial bottom trawling for
28 food fish and shellfish (~~is unlawful~~) in all areas of Hood Canal
29 south of a line projected from Tala Point to Foulweather Bluff and in
30 Puget Sound south of a line projected from Foulweather Bluff to Double
31 Bluff and including all marine waters east of Whidbey Island and Camano
32 Island.

33 **Sec. 83.** RCW 75.12.440 and 1993 c 340 s 50 are each amended to
34 read as follows:

35 (~~It is unlawful to use~~) The commission shall not authorize any
36 commercial fisher to use more than fifty shrimp pots while commercially

1 fishing for shrimp in that portion of Hood Canal lying south of the
2 Hood Canal floating bridge.

3 **Sec. 84.** RCW 75.12.650 and 1996 c 267 s 24 are each amended to
4 read as follows:

5 ~~((It is unlawful to fish commercially for salmon using fishing gear
6 not authorized for commercial salmon fishing by rule of the
7 department.))~~ The commission shall not authorize angling gear or other
8 personal use gear for commercial salmon fishing.

9 **Sec. 85.** RCW 75.20.040 and 1983 1st ex.s. c 46 s 70 are each
10 amended to read as follows:

11 A diversion device used for conducting water from a lake, river, or
12 stream for any purpose shall be equipped with a fish guard approved by
13 the director to prevent the passage of fish into the diversion device.
14 The fish guard shall be maintained at all times when water is taken
15 into the diversion device. The fish guards shall be installed at
16 places and times prescribed by the director upon thirty days' notice to
17 the owner of the diversion device. ~~((It is unlawful for the owner of
18 a diversion device to fail to comply with this section.))~~

19 Each day the diversion device is not equipped with an approved fish
20 guard is a separate offense. If within thirty days after notice to
21 equip a diversion device the owner fails to do so, the director may
22 take possession of the diversion device and close the device until it
23 is properly equipped. Expenses incurred by the department constitute
24 the value of a lien upon the diversion device and upon the real and
25 personal property of the owner. Notice of the lien shall be filed and
26 recorded in the office of the county auditor of the county in which the
27 action is taken.

28 **Sec. 86.** RCW 75.20.060 and 1983 1st ex.s. c 46 s 72 are each
29 amended to read as follows:

30 A dam or other obstruction across or in a stream shall be provided
31 with a durable and efficient fishway approved by the director. Plans
32 and specifications shall be provided to the department prior to the
33 director's approval. The fishway shall be maintained in an effective
34 condition and continuously supplied with sufficient water to freely
35 pass fish. ~~((It is unlawful for the owner, manager, agent, or person~~

1 ~~in charge of the dam or obstruction to fail to comply with this~~
2 ~~section.))~~

3 If a person fails to construct and maintain a fishway or to remove
4 the dam or obstruction in a manner satisfactory to the director, then
5 within thirty days after written notice to comply has been served upon
6 the owner, his agent, or the person in charge, the director may
7 construct a fishway or remove the dam or obstruction. Expenses
8 incurred by the department constitute the value of a lien upon the dam
9 and upon the personal property of the person owning the dam. Notice of
10 the lien shall be filed and recorded in the office of the county
11 auditor of the county in which the dam or obstruction is situated. The
12 lien may be foreclosed in an action brought in the name of the state.

13 If, within thirty days after notice to construct a fishway or
14 remove a dam or obstruction, the owner, his agent, or the person in
15 charge fails to do so, the dam or obstruction is a public nuisance and
16 the director may take possession of the dam or obstruction and destroy
17 it. No liability shall attach for the destruction.

18 **Sec. 87.** RCW 75.20.100 and 1997 c 385 s 1 and 1997 c 290 s 4 are
19 each reenacted and amended to read as follows:

20 (1) In the event that any person or government agency desires to
21 construct any form of hydraulic project or perform other work that will
22 use, divert, obstruct, or change the natural flow or bed of any of the
23 salt or fresh waters of the state, such person or government agency
24 shall, before commencing construction or work thereon and to ensure the
25 proper protection of fish life, secure the approval of the department
26 as to the adequacy of the means proposed for the protection of fish
27 life. This approval shall not be unreasonably withheld.

28 (2)(a) Except as provided in RCW 75.20.1001, the department shall
29 grant or deny approval of a standard permit within forty-five calendar
30 days of the receipt of a complete application and notice of compliance
31 with any applicable requirements of the state environmental policy act,
32 made in the manner prescribed in this section.

33 (b) The applicant may document receipt of application by filing in
34 person or by registered mail. A complete application for approval
35 shall contain general plans for the overall project, complete plans and
36 specifications of the proposed construction or work within the mean
37 higher high water line in salt water or within the ordinary high water

1 line in fresh water, and complete plans and specifications for the
2 proper protection of fish life.

3 (c) The forty-five day requirement shall be suspended if:

4 (i) After ten working days of receipt of the application, the
5 applicant remains unavailable or unable to arrange for a timely field
6 evaluation of the proposed project;

7 (ii) The site is physically inaccessible for inspection; or

8 (iii) The applicant requests delay. Immediately upon determination
9 that the forty-five day period is suspended, the department shall
10 notify the applicant in writing of the reasons for the delay.

11 (d) For purposes of this section, "standard permit" means a written
12 permit issued by the department when the conditions under subsections
13 (3) and ~~((6))~~(5)(b) of this section are not met.

14 (3)(a) The department may issue an expedited written permit in
15 those instances where normal permit processing would result in
16 significant hardship for the applicant or unacceptable damage to the
17 environment. In cases of imminent danger, the department shall issue
18 an expedited written permit, upon request, for work to repair existing
19 structures, move obstructions, restore banks, protect property, or
20 protect fish resources. Expedited permit requests require a complete
21 written application as provided in subsection (2)(b) of this section
22 and shall be issued within fifteen calendar days of the receipt of a
23 complete written application. Approval of an expedited permit is valid
24 for up to sixty days from the date of issuance.

25 (b) For the purposes of this subsection, "imminent danger" means a
26 threat by weather, water flow, or other natural conditions that is
27 likely to occur within sixty days of a request for a permit
28 application.

29 (c) The department may not require the provisions of the state
30 environmental policy act, chapter 43.21C RCW, to be met as a condition
31 of issuing a permit under this subsection.

32 (d) The department or the county legislative authority may
33 determine if an imminent danger exists. The county legislative
34 authority shall notify the department, in writing, if it determines
35 that an imminent danger exists.

36 (4) Approval of a standard permit is valid for a period of up to
37 five years from date of issuance. The permittee must demonstrate
38 substantial progress on construction of that portion of the project
39 relating to the approval within two years of the date of issuance. If

1 the department denies approval, the department shall provide the
2 applicant, in writing, a statement of the specific reasons why and how
3 the proposed project would adversely affect fish life. Protection of
4 fish life shall be the only ground upon which approval may be denied or
5 conditioned. Chapter 34.05 RCW applies to any denial of project
6 approval, conditional approval, or requirements for project
7 modification upon which approval may be contingent.

8 ~~(5) ((If any person or government agency commences construction on
9 any hydraulic works or projects subject to this section without first
10 having obtained approval of the department as to the adequacy of the
11 means proposed for the protection of fish life, or if any person or
12 government agency fails to follow or carry out any of the requirements
13 or conditions as are made a part of such approval, the person or
14 director of the agency is guilty of a gross misdemeanor. If any such
15 person or government agency is convicted of violating any of the
16 provisions of this section and continues construction on any such works
17 or projects without fully complying with the provisions hereof, such
18 works or projects are hereby declared a public nuisance and shall be
19 subject to abatement as such.~~

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

32 (b) For purposes of this section and RCW 75.20.103, "emergency"
33 means an immediate threat to life, the public, property, or of
34 environmental degradation.

35 (c) The department or the county legislative authority may declare
36 and continue an emergency when one or more of the criteria under (b) of
37 this subsection are met. The county legislative authority shall
38 immediately notify the department if it declares an emergency under
39 this subsection.

1 (~~(7)~~) (6) The department shall, at the request of a county,
2 develop five-year maintenance approval agreements, consistent with
3 comprehensive flood control management plans adopted under the
4 authority of RCW 86.12.200, or other watershed plan approved by a
5 county legislative authority, to allow for work on public and private
6 property for bank stabilization, bridge repair, removal of sand bars
7 and debris, channel maintenance, and other flood damage repair and
8 reduction activity under agreed-upon conditions and times without
9 obtaining permits for specific projects.

10 (~~(8)~~) (7) This section shall not apply to the construction of any
11 form of hydraulic project or other work which diverts water for
12 agricultural irrigation or stock watering purposes authorized under or
13 recognized as being valid by the state's water codes, or when such
14 hydraulic project or other work is associated with streambank
15 stabilization to protect farm and agricultural land as defined in RCW
16 84.34.020. These irrigation or stock watering diversion and streambank
17 stabilization projects shall be governed by RCW 75.20.103.

18 A landscape management plan approved by the department and the
19 department of natural resources under RCW 76.09.350(2), shall serve as
20 a hydraulic project approval for the life of the plan if fish are
21 selected as one of the public resources for coverage under such a plan.

22 (~~(9)~~) (8) For the purposes of this section and RCW 75.20.103,
23 "bed" means the land below the ordinary high water lines of state
24 waters. This definition does not include irrigation ditches, canals,
25 storm water run-off devices, or other artificial watercourses except
26 where they exist in a natural watercourse that has been altered by man.

27 (~~(10)~~) (9) The phrase "to construct any form of hydraulic project
28 or perform other work" does not include the act of driving across an
29 established ford. Driving across streams or on wetted stream beds at
30 areas other than established fords requires approval. Work within the
31 ordinary high water line of state waters to construct or repair a ford
32 or crossing requires approval.

33 **Sec. 88.** RCW 75.20.103 and 1993 sp.s. c 2 s 32 are each amended to
34 read as follows:

35 In the event that any person or government agency desires to
36 construct any form of hydraulic project or other work that diverts
37 water for agricultural irrigation or stock watering purposes, or when
38 such hydraulic project or other work is associated with streambank

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

25 Immediately upon determination that the forty-five day period is
26 suspended, the department shall notify the applicant in writing of the
27 reasons for the delay.

28 An approval shall remain in effect without need for periodic
29 renewal for projects that divert water for agricultural irrigation or
30 stock watering purposes and that involve seasonal construction or other
31 work. Approval for streambank stabilization projects shall remain in
32 effect without need for periodic renewal if the problem causing the
33 need for the streambank stabilization occurs on an annual or more
34 frequent basis. The permittee must notify the appropriate agency
35 before commencing the construction or other work within the area
36 covered by the approval.

37 The permittee must demonstrate substantial progress on construction
38 of that portion of the project relating to the approval within two
39 years of the date of issuance. If the department denies approval, the

1 department shall provide the applicant, in writing, a statement of the
2 specific reasons why and how the proposed project would adversely
3 affect fish life. Protection of fish life shall be the only ground
4 upon which approval may be denied or conditioned. Issuance, denial,
5 conditioning, or modification shall be appealable to the hydraulic
6 appeals board established in RCW 43.21B.005 within thirty days of the
7 notice of decision. The burden shall be upon the department to show
8 that the denial or conditioning of an approval is solely aimed at the
9 protection of fish life.

10 The department may, after consultation with the permittee, modify
11 an approval due to changed conditions. The modifications shall become
12 effective unless appealed to the hydraulic appeals board within thirty
13 days from the notice of the proposed modification. The burden is on
14 the department to show that changed conditions warrant the modification
15 in order to protect fish life.

16 A permittee may request modification of an approval due to changed
17 conditions. The request shall be processed within forty-five calendar
18 days of receipt of the written request. A decision by the department
19 may be appealed to the hydraulic appeals board within thirty days of
20 the notice of the decision. The burden is on the permittee to show
21 that changed conditions warrant the requested modification and that
22 such modification will not impair fish life.

23 ~~((If any person or government agency commences construction on any
24 hydraulic works or projects subject to this section without first
25 having obtained written approval of the department as to the adequacy
26 of the means proposed for the protection of fish life, or if any person
27 or government agency fails to follow or carry out any of the
28 requirements or conditions as are made a part of such approval, the
29 person or director of the agency is guilty of a gross misdemeanor. If
30 any such person or government agency is convicted of violating any of
31 the provisions of this section and continues construction on any such
32 works or projects without fully complying with the provisions hereof,
33 such works or projects are hereby declared a public nuisance and shall
34 be subject to abatement as such.))~~

35 In case of an emergency arising from weather or stream flow
36 conditions or other natural conditions, the department, through its
37 authorized representatives, shall issue immediately upon request oral
38 approval for removing any obstructions, repairing existing structures,
39 restoring stream banks, or to protect property threatened by the stream

1 or a change in the stream flow without the necessity of obtaining a
2 written approval prior to commencing work. Conditions of an oral
3 approval shall be reduced to writing within thirty days and complied
4 with as provided for in this section.

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

9 **Sec. 89.** RCW 75.20.110 and 1995 1st sp.s. c 2 s 27 are each
10 amended to read as follows:

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

17 (2) Within the sanctuary area:

18 (a) ~~((It is unlawful))~~ The department shall not issue hydraulic
19 project approval to construct a dam greater than twenty-five feet high
20 within the migration range of anadromous fish as determined by the
21 ~~((commission))~~ department.

22 (b) ~~((Except by order of the commission, it is unlawful to))~~ A
23 person shall not divert water from rivers and streams in quantities
24 that will reduce the respective stream flow below the annual average
25 low flow, based upon data published in United States geological survey
26 reports.

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

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

34 **Sec. 90.** RCW 75.24.080 and 1983 1st ex.s. c 46 s 83 are each
35 amended to read as follows:

36 The director may designate as "restricted shellfish areas" those
37 areas in which infection or infestation of shellfish is present.

1 (~~Except by~~) A permit (~~of~~) issued by the director(~~, it~~) is
2 (~~unlawful~~) required to transplant or transport into or out of a
3 restricted area shellfish or equipment used in culturing, taking,
4 handling, or processing shellfish.

5 **Sec. 91.** RCW 75.24.100 and 1995 1st sp.s. c 2 s 29 are each
6 amended to read as follows:

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

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

26 **Sec. 92.** RCW 75.24.110 and 1983 1st ex.s. c 46 s 87 are each
27 amended to read as follows:

28 (~~It is unlawful for~~) The department may not authorize a person to
29 import oysters or oyster seed into this state for the purpose of
30 planting them in state waters without a permit from the director. The
31 director shall issue a permit only after an adequate inspection has
32 been made and the oysters or oyster seed are found to be free of
33 disease, pests, and other substances which might endanger oysters in
34 state waters.

35 **Sec. 93.** RCW 75.28.010 and 1997 c 58 s 883 are each amended to
36 read as follows:

1 (1) Except as otherwise provided by this title, (~~it is unlawful~~
2 ~~to~~) a person may not engage in any of the following activities without
3 a license or permit issued by the director:

- 4 (a) Commercially fish for or take food fish or shellfish;
- 5 (b) Deliver food fish or shellfish taken in offshore waters;
- 6 (c) Operate a charter boat or commercial fishing vessel engaged in
7 a fishery;
- 8 (d) Engage in processing or wholesaling food fish or shellfish; or
- 9 (e) Act as a guide for salmon for personal use in freshwater rivers
10 and streams, other than that part of the Columbia river below the
11 bridge at Longview.

12 (2) No person may engage in the activities described in subsection
13 (1) of this section unless the licenses or permits required by this
14 title are in the person's possession, and the person is the named
15 license holder or an alternate operator designated on the license and
16 the person's license is not suspended.

17 (3) A valid Oregon license that is equivalent to a license under
18 this title is valid in the concurrent waters of the Columbia river if
19 the state of Oregon recognizes as valid the equivalent Washington
20 license. The director may identify by rule what Oregon licenses are
21 equivalent.

22 (4) No license or permit is required for the production or
23 harvesting of private sector cultured aquatic products as defined in
24 RCW 15.85.020 or for the delivery, processing, or wholesaling of such
25 aquatic products. However, if a means of identifying such products is
26 required by rules adopted under RCW 15.85.060, the exemption from
27 licensing or permit requirements established by this subsection applies
28 only if the aquatic products are identified in conformance with those
29 rules.

30 **Sec. 94.** RCW 75.28.045 and 1993 c 340 s 7 are each amended to read
31 as follows:

32 This section applies to all commercial fishery licenses, delivery
33 licenses, and charter licenses.

34 (1) An applicant for a license subject to this section may
35 designate a vessel to be used with the license. Except for emergency
36 salmon delivery licenses, the director may issue a license regardless
37 of whether the applicant designates a vessel. An applicant may
38 designate no more than one vessel on a license subject to this section.

1 (2) A license for a fishery that requires a vessel authorizes no
2 taking or delivery of food fish or shellfish unless a vessel is
3 designated on the license. A delivery license authorizes no delivery
4 of food fish or shellfish unless a vessel is designated on the license.

5 ~~(3) ((It is unlawful to take food fish or shellfish in a fishery
6 that requires a vessel except from a vessel designated on a commercial
7 fishery license for that fishery.~~

8 ~~(4) It is unlawful to operate a vessel as a charter boat unless the
9 vessel is designated on a charter license.~~

10 (5)) No vessel may be designated on more than one commercial
11 fishery license unless the licenses are for different fisheries. No
12 vessel may be designated on more than one delivery license, on more
13 than one salmon charter license, or on more than one nonsalmon charter
14 license.

15 **Sec. 95.** RCW 75.28.095 and 1997 c 76 s 2 are each amended to read
16 as follows:

17 (1) The director shall issue the charter licenses and angler
18 permits listed in this section according to the requirements of this
19 title. The licenses and permits and their annual fees and surcharges
20 are:

License or Permit	Annual Fee		Governing Section
	Resident	Nonresident	
(a) Nonsalmon charter	\$225	\$375	
(b) Salmon charter	\$380 (plus \$100)	\$685 (plus \$100)	RCW 75.30.065
(c) Salmon angler	\$ 0	\$ 0	RCW 75.30.070
(d) Salmon roe	\$ 95	\$ 95	RCW 75.28.690

29 ~~(2) ((Except as provided in subsection (5) of this section, it is
30 unlawful to operate a vessel as a charter boat from which salmon or
31 salmon and other food fish or shellfish are taken without a salmon
32 charter license designating the vessel))~~ A salmon charter license
33 designating a vessel is required to operate a charter boat to take
34 salmon, other food fish, and shellfish. The director may issue a
35 salmon charter license only to a person who meets the qualifications of
36 RCW 75.30.065.

37 ~~(3) ((Except as provided in subsections (2) and (5) of this
38 section, it is unlawful to operate a vessel as a charter boat from~~

1 ~~which food fish or shellfish are taken without a nonsalmon charter~~
2 ~~license))~~ A nonsalmon charter license designating a vessel is required
3 to operate a charter boat to take food fish other than salmon and
4 shellfish. As used in this subsection, "food fish" does not include
5 salmon.

6 (4) "Charter boat" means a vessel from which persons may, for a
7 fee, fish for food fish or shellfish for personal use, and that brings
8 food fish or shellfish into state ports or brings food fish or
9 shellfish taken from state waters into United States ports. The
10 director may specify by rule when a vessel is a "charter boat" within
11 this definition. "Charter boat" does not mean a vessel used by a guide
12 for clients fishing for food fish for personal use in freshwater
13 rivers, streams, and lakes, other than Lake Washington or that part of
14 the Columbia River below the bridge at Longview.

15 (5) A charter boat licensed in Oregon may fish without a Washington
16 charter license under the same rules as Washington charter boat
17 operators in ocean waters within the jurisdiction of Washington state
18 from the southern border of the state of Washington to Leadbetter
19 Point, as long as the Oregon vessel does not land at any Washington
20 port with the purpose of taking on or discharging passengers. The
21 provisions of this subsection shall be in effect as long as the state
22 of Oregon has reciprocal laws and regulations.

23 (6) A salmon charter license under subsection (1)(b) of this
24 section may be renewed if the license holder notifies the department by
25 May 1st of that year that he or she will not participate in the fishery
26 during that calendar year. The license holder must pay the one
27 hundred-dollar enhancement surcharge, plus a fifteen-dollar handling
28 charge, in order to be considered a valid renewal and eligible to renew
29 the license the following year.

30 **Sec. 96.** RCW 75.28.113 and 1994 c 260 s 22 are each amended to
31 read as follows:

32 ~~(1) ((It is unlawful to deliver salmon taken in offshore waters to~~
33 ~~a place or port in the state without))~~ A salmon delivery license ((from
34 ~~the director))~~ is required to deliver salmon taken in offshore waters
35 to a place or port in the state. The annual fee for a salmon delivery
36 license is three hundred eighty dollars for residents and six hundred
37 eighty-five dollars for nonresidents. The annual surcharge under RCW
38 75.50.100 is one hundred dollars for each license. Holders of

1 nonlimited entry delivery licenses issued under RCW 75.28.125 may apply
2 the nonlimited entry delivery license fee against the salmon delivery
3 license fee.

4 (2) Only a person who meets the qualifications established in RCW
5 75.30.120 may hold a salmon delivery license issued under this section.

6 (3) A salmon delivery license authorizes no taking of salmon or
7 other food fish or shellfish from the waters of the state.

8 (4) If the director determines that the operation of a vessel under
9 a salmon delivery license results in the depletion or destruction of
10 the state's salmon resource or the delivery into this state of salmon
11 products prohibited by law, the director may revoke the license under
12 the procedures of chapter 34.05 RCW.

13 **Sec. 97.** RCW 75.28.125 and 1994 c 260 s 21 are each amended to
14 read as follows:

15 (1) Except as provided in subsection (2) of this section, (~~it is~~
16 ~~unlawful to deliver with~~) a person may not use a commercial fishing
17 vessel to deliver food fish or shellfish taken in offshore waters to a
18 port in the state without a nonlimited entry delivery license. As used
19 in this section, "food fish" does not include salmon. As used in this
20 section, "shellfish" does not include ocean pink shrimp or coastal
21 crab. The annual license fee for a nonlimited entry delivery license
22 is one hundred ten dollars for residents and two hundred dollars for
23 nonresidents.

24 (2) Holders of salmon troll fishery licenses issued under RCW
25 75.28.110, salmon delivery licenses issued under RCW 75.28.113, crab
26 pot fishery licenses issued under RCW 75.28.130, food fish trawl«Non-
27 Puget Sound fishery licenses issued under RCW 75.28.120, Dungeness
28 crab«coastal fishery licenses, ocean pink shrimp delivery licenses, and
29 shrimp trawl«Non-Puget Sound fishery licenses issued under RCW
30 75.28.130 may deliver food fish or shellfish taken in offshore waters
31 without a nonlimited entry delivery license.

32 (3) A nonlimited entry delivery license authorizes no taking of
33 food fish or shellfish from state waters.

34 **Sec. 98.** RCW 75.28.710 and 1993 c 340 s 26 are each amended to
35 read as follows:

36 (1) (~~It is unlawful to~~) A person shall not offer or perform the
37 services of a professional salmon guide in the taking of salmon for

1 personal use in freshwater rivers and streams, other than in that part
2 of the Columbia river below the bridge at Longview, without a
3 professional salmon guide license.

4 (2) Only an individual at least sixteen years of age may hold a
5 professional salmon guide license. No individual may hold more than
6 one professional salmon guide license.

7 **Sec. 99.** RCW 75.28.740 and 1993 c 340 s 18 are each amended to
8 read as follows:

9 (1) The director may by rule designate a fishery as an emerging
10 commercial fishery. The director shall include in the designation
11 whether the fishery is one that requires a vessel.

12 (2) "Emerging commercial fishery" means the commercial taking of a
13 newly classified species of food fish or shellfish, the commercial
14 taking of a classified species with gear not previously used for that
15 species, or the commercial taking of a classified species in an area
16 from which that species has not previously been commercially taken.
17 Any species of food fish or shellfish commercially harvested in
18 Washington state as of June 7, 1990, may be designated as a species in
19 an emerging commercial fishery, except that no fishery subject to a
20 license limitation program in chapter 75.30 RCW may be designated as an
21 emerging commercial fishery.

22 (3) (~~It is unlawful to~~) A person shall not take food fish or
23 shellfish in a fishery designated as an emerging commercial fishery
24 without an emerging commercial fishery license and a permit from the
25 director. The director shall issue two types of permits to accompany
26 emerging commercial fishery licenses: Trial fishery permits and
27 experimental fishery permits. Trial fishery permits are governed by
28 subsection (4) of this section. Experimental fishery permits are
29 governed by RCW 75.30.220.

30 (4) The director shall issue trial fishery permits for a fishery
31 designated as an emerging commercial fishery unless the director
32 determines there is a need to limit the number of participants under
33 RCW 75.30.220. A person who meets the qualifications of RCW 75.28.020
34 may hold a trial fishery permit. The holder of a trial fishery permit
35 shall comply with the terms of the permit. Trial fishery permits are
36 not transferable from the permit holder to any other person.

1 **Sec. 100.** RCW 75.30.070 and 1993 c 340 s 29 are each amended to
2 read as follows:

3 (1) Except as provided in subsection (3) of this section, (~~it is~~
4 ~~unlawful to~~) a person shall not operate a vessel as a charter boat
5 from which salmon are taken in salt water without an angler permit.
6 The angler permit shall specify the maximum number of persons that may
7 fish from the charter boat per trip. The angler permit expires if the
8 salmon charter license is not renewed.

9 (2) Only a person who holds a salmon charter license issued under
10 RCW 75.28.095 and 75.30.065 may hold an angler permit.

11 (3) An angler permit shall not be required for charter boats
12 licensed in Oregon and fishing in ocean waters within the jurisdiction
13 of Washington state from the southern border of the state of Washington
14 to Leadbetter Point under the same regulations as Washington charter
15 boat operators, as long as the Oregon vessel does not land at any
16 Washington port with the purpose of taking on or discharging
17 passengers. The provisions of this subsection shall be in effect as
18 long as the state of Oregon has reciprocal laws and regulations.

19 **Sec. 101.** RCW 75.30.130 and 1997 c 233 s 1 and 1997 c 115 s 1 are
20 each reenacted and amended to read as follows:

21 (1) (~~It is unlawful to~~) A person shall not commercially take
22 Dungeness crab (Cancer magister) in Puget Sound without first obtaining
23 a Dungeness crab--Puget Sound fishery license. As used in this
24 section, "Puget Sound" has the meaning given in RCW 75.28.110(5)(a).
25 A Dungeness crab--Puget Sound fishery license is not required to take
26 other species of crab, including red rock crab (*Cancer productus*).

27 (2) Except as provided in subsections (3) and (6) of this section,
28 after January 1, 1982, the director shall issue no new Dungeness crab--
29 Puget Sound fishery licenses. Only a person who meets the following
30 qualification may renew an existing license: The person shall have
31 held the Dungeness crab--Puget Sound fishery license sought to be
32 renewed during the previous year or acquired the license by transfer
33 from someone who held it during the previous year, and shall not have
34 subsequently transferred the license to another person.

35 (3) Where the person failed to obtain the license during the
36 previous year because of a license suspension, the person may qualify
37 for a license by establishing that the person held such a license
38 during the last year in which the license was not suspended.

1 (4) This section does not restrict the issuance of commercial crab
2 licenses for areas other than Puget Sound or for species other than
3 Dungeness crab.

4 (5) Dungeness crab--Puget Sound fishery licenses are transferable
5 from one license holder to another.

6 (6) If fewer than one hundred twenty-five persons are eligible for
7 Dungeness crab--Puget Sound fishery licenses, the director may accept
8 applications for new licenses. The director shall determine by random
9 selection the successful applicants for the additional licenses. The
10 number of additional licenses issued shall be sufficient to maintain
11 one hundred twenty-five licenses in the Puget Sound Dungeness crab
12 fishery. The director shall adopt rules governing the application,
13 selection, and issuance procedures for new Dungeness crab--Puget Sound
14 fishery licenses, based upon recommendations of a board of review
15 established under RCW 75.30.050.

16 **Sec. 102.** RCW 75.30.140 and 1993 c 340 s 35 are each amended to
17 read as follows:

18 (1) (~~It is unlawful to~~) A person shall not fish commercially for
19 herring in state waters without a herring fishery license. As used in
20 this section, "herring fishery license" means any of the following
21 commercial fishery licenses issued under RCW 75.28.120: Herring dip
22 bag net; herring drag seine; herring gill net; herring lampara; herring
23 purse seine.

24 (2) Except as provided in this section, a herring fishery license
25 may be issued only to a person who(~~:~~

26 ~~(a) Established initial eligibility for a herring fishery license~~
27 ~~as provided in subsection (3) of this section or acquired such a~~
28 ~~license by transfer;~~

29 ~~(b) Held a herring fishery license during the previous year or~~
30 ~~acquired such a license by transfer; and~~

31 ~~(c) Has not subsequently transferred the license to another person.~~

32 ~~(3) A person may establish initial eligibility for a herring~~
33 ~~fishery license by:~~

34 ~~(a) Documenting to the department that the person landed herring~~
35 ~~during the period January 1, 1971, through April 15, 1973;~~

36 ~~(b) Documenting to the department that the person landed herring~~
37 ~~during the period January 1, 1969, through December 31, 1970, if the~~

1 person was in the armed forces of the United States during the period
2 January 1, 1971, through April 15, 1973; or

3 (c) Applying to the department and qualifying for a herring fishery
4 license under hardship criteria established by rule of the director.

5 Landings may be documented only by a department fish receiving
6 ticket.

7 (4) A herring fishery license may be issued only for the type of
8 fishing gear used to establish initial eligibility for the license.

9 (5) The director may establish rules governing the administration
10 of this section based upon recommendations of a board of review
11 established under RCW 75.30.050.

12 (6) Except as provided in subsection (8) of this section, after
13 January 1, 1995, the director shall issue no new herring fishery
14 licenses. After January 1, 1995, a person may renew an existing
15 license only if the person)) held the license sought to be renewed
16 during the previous year or acquired the license by transfer from
17 someone who held it during the previous year, and if the person has not
18 subsequently transferred the license to another person.

19 ((+7)) (3) Herring fishery licenses may be renewed each year. A
20 herring fishery license that is not renewed each year shall not be
21 renewed further.

22 ((+8)) (4) The department may issue additional herring fishery
23 licenses if the stocks of herring will not be jeopardized by granting
24 additional licenses.

25 ((+9)) (5) Subject to the restrictions of ((section 11 of this
26 act)) RCW 75.28.011, herring fishery licenses are transferable from one
27 license holder to another.

28 **Sec. 103.** RCW 75.30.160 and 1993 c 340 s 38 are each amended to
29 read as follows:

30 ((It is unlawful to)) A person shall not commercially take whiting
31 from areas that the department designates within the waters described
32 in RCW 75.28.110(5)(a) without a whiting--Puget Sound fishery license.

33 **Sec. 104.** RCW 75.30.210 and 1993 c 340 s 41 are each amended to
34 read as follows:

35 (1) ((It is unlawful to)) A person shall not commercially take any
36 species of sea urchin using shellfish diver gear without first
37 obtaining a sea urchin dive fishery license.

1 (2) Except as provided in subsections (3) and (6) of this section,
2 after December 31, 1991, the director shall issue no new sea urchin
3 dive fishery licenses. Only a person who meets the following
4 qualifications may renew an existing license:

5 (a) The person shall have held the sea urchin dive fishery license
6 sought to be renewed during the previous year or acquired the license
7 by transfer from someone who held it during the previous year; and

8 (b) The person shall document, by valid shellfish receiving tickets
9 issued by the department, that twenty thousand pounds of sea urchins
10 were caught and sold under the license sought to be renewed during the
11 two-year period ending March 31 of the most recent odd-numbered year.

12 (3) Where the person failed to obtain the license during the
13 previous year because of a license suspension or revocation by the
14 department or the court, the person may qualify for a license by
15 establishing that the person held such a license during the last year
16 in which the person was eligible.

17 (4) The director may reduce or waive the poundage requirement of
18 subsection (2)(b) of this section upon the recommendation of a board of
19 review established under RCW 75.30.050. The board of review may
20 recommend a reduction or waiver of the poundage requirement in
21 individual cases if, in the board's judgment, extenuating circumstances
22 prevent achievement of the poundage requirement. The director shall
23 adopt rules governing the operation of the board of review and defining
24 "extenuating circumstances."

25 (5) Sea urchin dive fishery licenses are not transferable from one
26 license holder to another, except from parent to child, or from spouse
27 to spouse during marriage or as a result of marriage dissolution, or
28 upon the death of the license holder.

29 (6) If fewer than forty-five persons are eligible for sea urchin
30 dive fishery licenses, the director may accept applications for new
31 licenses. The director shall determine by random selection the
32 successful applicants for the additional licenses. The number of
33 additional licenses issued shall be sufficient to maintain up to forty-
34 five licenses in the sea urchin dive fishery. The director shall adopt
35 rules governing the application, selection, and issuance procedure for
36 new sea urchin dive fishery licenses, based upon recommendations of a
37 board of review established under RCW 75.30.050.

1 **Sec. 105.** RCW 75.30.250 and 1993 c 340 s 44 are each amended to
2 read as follows:

3 (1) (~~It is unlawful to~~) A person shall not commercially take
4 while using shellfish diver gear any species of sea cucumber without
5 first obtaining a sea cucumber dive fishery license.

6 (2) Except as provided in subsection (6) of this section, after
7 December 31, 1991, the director shall issue no new sea cucumber dive
8 fishery licenses. Only a person who meets the following qualifications
9 may renew an existing license:

10 (a) The person shall have held the sea cucumber dive fishery
11 license sought to be renewed during the previous two years or acquired
12 the license by transfer from someone who held it during the previous
13 year; and

14 (b) The person shall establish, by means of dated shellfish
15 receiving documents issued by the department, that thirty landings of
16 sea cucumbers totaling at least ten thousand pounds were made under the
17 license during the previous two-year period ending December 31 of the
18 odd-numbered year.

19 (3) Where the person failed to obtain the license during either of
20 the previous two years because of a license suspension by the
21 department or the court, the person may qualify for a license by
22 establishing that the person held such a license during the last year
23 in which the person was eligible.

24 (4) The director may reduce or waive any landing or poundage
25 requirement established under this section upon the recommendation of
26 a board of review established under RCW 75.30.050. The board of review
27 may recommend a reduction or waiver of any landing or poundage
28 requirement in individual cases if, in the board's judgment,
29 extenuating circumstances prevent achievement of the landing or
30 poundage requirement. The director shall adopt rules governing the
31 operation of the board of review and defining "extenuating
32 circumstances."

33 (5) Sea cucumber dive fishery licenses are not transferable from
34 one license holder to another except from parent to child, from spouse
35 to spouse during marriage or as a result of marriage dissolution, or
36 upon death of the license holder.

37 (6) If fewer than fifty persons are eligible for sea cucumber dive
38 fishery licenses, the director may accept applications for new licenses
39 from those persons who can demonstrate two years' experience in the

1 Washington state sea cucumber dive fishery. The director shall
2 determine by random selection the successful applicants for the
3 additional licenses. The number of additional licenses issued shall be
4 sufficient to maintain up to fifty licenses in the sea cucumber dive
5 fishery. The director shall adopt rules governing the application,
6 selection, and issuance procedure for new sea cucumber dive fishery
7 licenses, based upon recommendations of a board of review established
8 under RCW 75.30.050.

9 **Sec. 106.** RCW 75.30.280 and 1993 c 340 s 46 are each amended to
10 read as follows:

11 (1) (~~It is unlawful to~~) A person shall not harvest geoduck clams
12 commercially without a geoduck fishery license. This section does not
13 apply to the harvest of private sector cultured aquatic products as
14 defined in RCW 15.85.020.

15 (2) Only a person who has entered into a geoduck harvesting
16 agreement with the department of natural resources under RCW 79.96.080
17 may hold a geoduck fishery license.

18 (3) A geoduck fishery license authorizes no taking of geoducks
19 outside the boundaries of the public lands designated in the underlying
20 harvesting agreement, or beyond the harvest ceiling set in the
21 underlying harvesting agreement.

22 (4) A geoduck fishery license expires when the underlying geoduck
23 harvesting agreement terminates.

24 (5) The director shall determine the number of geoduck fishery
25 licenses that may be issued for each geoduck harvesting agreement, the
26 number of units of gear whose use the license authorizes, and the type
27 of gear that may be used, subject to RCW 75.24.100. In making those
28 determinations, the director shall seek to conserve the geoduck
29 resource and prevent damage to its habitat.

30 (6) The holder of a geoduck fishery license and the holder's agents
31 and representatives shall comply with all applicable commercial diving
32 safety regulations adopted by the federal occupational safety and
33 health administration established under the federal occupational safety
34 and health act of 1970 as such law exists on May 8, 1979, 84 Stat. 1590
35 et seq.; 29 U.S.C. Sec. 651 et seq. A violation of those regulations
36 is a violation of this subsection. For the purposes of this section,
37 persons who dive for geoducks are "employees" as defined by the federal
38 occupational safety and health act. A violation of this subsection is

1 grounds for suspension or revocation of a geoduck fishery license
2 following a hearing under the procedures of chapter 34.05 RCW. The
3 department shall not suspend or revoke a geoduck fishery license if the
4 violation has been corrected within ten days of the date the license
5 holder receives written notice of the violation. If there is a
6 substantial probability that a violation of the commercial diving
7 standards could result in death or serious physical harm to a person
8 engaged in harvesting geoduck clams, the department shall suspend the
9 license immediately until the violation has been corrected. If the
10 license holder is not the operator of the harvest vessel and has
11 contracted with another person for the harvesting of geoducks, the
12 department shall not suspend or revoke the license if the license
13 holder terminates its business relationship with that person until
14 compliance with this subsection is secured.

15 **Sec. 107.** RCW 75.30.290 and 1993 c 376 s 5 are each amended to
16 read as follows:

17 (~~(After December 31, 1993, it is unlawful to)~~) A person shall not
18 commercially deliver into any Washington state port ocean pink shrimp
19 caught in offshore waters without an ocean pink shrimp delivery license
20 issued under RCW 75.28.730, or an ocean pink shrimp single delivery
21 license issued under RCW 75.30.320. An ocean pink shrimp delivery
22 license shall be issued to a vessel that:

23 (1) Landed a total of at least five thousand pounds of ocean pink
24 shrimp in Washington in any single calendar year between January 1,
25 1983, and December 31, 1992, as documented by a valid shellfish
26 receiving ticket; and

27 (2) Can show continuous participation in the Washington, Oregon, or
28 California ocean pink shrimp fishery by being eligible to land ocean
29 pink shrimp in either Washington, Oregon, or California each year since
30 the landing made under subsection (1) of this section. Evidence of
31 such eligibility shall be a certified statement from the relevant state
32 licensing agency that the applicant for a Washington ocean pink shrimp
33 delivery license held at least one of the following permits:

34 (a) For Washington: Possession of a delivery permit or delivery
35 license issued under RCW 75.28.125 or a trawl license (other than Puget
36 Sound) issued under RCW 75.28.140;

37 (b) For Oregon: Possession of a vessel permit issued under Oregon
38 Revised Statute 508.880; or

1 (c) For California: A trawl permit issued under California Fish
2 and Game Code sec. 8842.

3 **Sec. 108.** RCW 75.30.350 and 1995 c 252 s 1 are each amended to
4 read as follows:

5 (1) (~~Effective January 1, 1995, it is unlawful to~~) A person shall
6 not commercially fish for coastal crab in Washington state waters
7 without a Dungeness crab~~coastal~~ or a Dungeness crab~~coastal~~ class B
8 fishery license. Gear used must consist of one buoy attached to each
9 crab pot. Each crab pot must be fished individually.

10 (2) A Dungeness crab~~coastal~~ fishery license is transferable.
11 Except as provided in subsection (3) of this section, such a license
12 shall only be issued to a person who proved active historical
13 participation in the coastal crab fishery by having designated, after
14 December 31, 1993, a vessel or a replacement vessel on the qualifying
15 license that singly or in combination meets the following criteria:

16 (a) Made a minimum of eight coastal crab landings totaling a
17 minimum of five thousand pounds per season in at least two of the four
18 qualifying seasons identified in subsection (5) of this section, as
19 documented by valid Washington state shellfish receiving tickets; and
20 showed historical and continuous participation in the coastal crab
21 fishery by having held one of the following licenses or their
22 equivalents each calendar year beginning 1990 through 1993, and was
23 designated on the qualifying license of the person who held one of the
24 following licenses in 1994:

25 (i) Crab pot~~Non-Puget Sound~~ license, issued under RCW
26 75.28.130(1)(b);

27 (ii) Nonsalmon delivery license, issued under RCW 75.28.125;

28 (iii) Salmon troll license, issued under RCW 75.28.110;

29 (iv) Salmon delivery license, issued under RCW 75.28.113;

30 (v) Food fish trawl license, issued under RCW 75.28.120; or

31 (vi) Shrimp trawl license, issued under RCW 75.28.130; or

32 (b) Made a minimum of four Washington landings of coastal crab
33 totaling two thousand pounds during the period from December 1, 1991,
34 to March 20, 1992, and made a minimum of eight crab landings totaling
35 a minimum of five thousand pounds of coastal crab during each of the
36 following periods: December 1, 1991, to September 15, 1992; December
37 1, 1992, to September 15, 1993; and December 1, 1993, to September 15,
38 1994. For landings made after December 31, 1993, the vessel shall

1 have been designated on the qualifying license of the person making the
2 landings; or

3 (c) Made any number of coastal crab landings totaling a minimum of
4 twenty thousand pounds per season in at least two of the four
5 qualifying seasons identified in subsection (5) of this section, as
6 documented by valid Washington state shellfish receiving tickets,
7 showed historical and continuous participation in the coastal crab
8 fishery by having held one of the qualifying licenses each calendar
9 year beginning 1990 through 1993, and the vessel was designated on the
10 qualifying license of the person who held that license in 1994.

11 (3) A Dungeness crab-coastal fishery license shall be issued to a
12 person who had a new vessel under construction between December 1,
13 1988, and September 15, 1992, if the vessel made coastal crab landings
14 totaling a minimum of five thousand pounds by September 15, 1993, and
15 the new vessel was designated on the qualifying license of the person
16 who held that license in 1994. All landings shall be documented by
17 valid Washington state shellfish receiving tickets. License
18 applications under this subsection may be subject to review by the
19 advisory review board in accordance with RCW 75.30.050. For purposes
20 of this subsection, "under construction" means either:

21 (a)(i) A contract for any part of the work was signed before
22 September 15, 1992; and

23 (ii) The contract for the vessel under construction was not
24 transferred or otherwise alienated from the contract holder between the
25 date of the contract and the issuance of the Dungeness crab-coastal
26 fishery license; and

27 (iii) Construction had not been completed before December 1, 1988;
28 or

29 (b)(i) The keel was laid before September 15, 1992; and

30 (ii) Vessel ownership was not transferred or otherwise alienated
31 from the owner between the time the keel was laid and the issuance of
32 the Dungeness crab-coastal fishery license; and

33 (iii) Construction had not been completed before December 1, 1988.

34 (4) A Dungeness crab-coastal class B fishery license is not
35 transferable. Such a license shall be issued to persons who do not
36 meet the qualification criteria for a Dungeness crab-coastal fishery
37 license, if the person has designated on a qualifying license after
38 December 31, 1993, a vessel or replacement vessel that, singly or in
39 combination, made a minimum of four landings totaling a minimum of two

1 thousand pounds of coastal crab, documented by valid Washington state
2 shellfish receiving tickets, during at least one of the four qualifying
3 seasons, and if the person has participated continuously in the coastal
4 crab fishery by having held or by having owned a vessel that held one
5 or more of the licenses listed in subsection (2) of this section in
6 each calendar year subsequent to the qualifying season in which
7 qualifying landings were made through 1994. Dungeness crab coastal
8 class B fishery licenses cease to exist after December 31, 1999, and
9 the continuing license provisions of RCW 34.05.422(3) are not
10 applicable.

11 (5) The four qualifying seasons for purposes of this section are:

12 (a) December 1, 1988, through September 15, 1989;

13 (b) December 1, 1989, through September 15, 1990;

14 (c) December 1, 1990, through September 15, 1991; and

15 (d) December 1, 1991, through September 15, 1992.

16 (6) For purposes of this section and RCW 75.30.420, "coastal crab"
17 means Dungeness crab (cancer magister) taken in all Washington
18 territorial and offshore waters south of the United States-Canada
19 boundary and west of the Bonilla-Tatoosh line (a line from the western
20 end of Cape Flattery to Tatoosh Island lighthouse, then to the buoy
21 adjacent to Duntz Rock, then in a straight line to Bonilla Point of
22 Vancouver island), Grays Harbor, Willapa Bay, and the Columbia river.

23 (7) For purposes of this section, "replacement vessel" means a
24 vessel used in the coastal crab fishery in 1994, and that replaces a
25 vessel used in the coastal crab fishery during any period from 1988
26 through 1993, and which vessel's licensing and catch history, together
27 with the licensing and catch history of the vessel it replaces,
28 qualifies a single applicant for a Dungeness crab coastal or Dungeness
29 crab coastal class B fishery license. A Dungeness crab coastal or
30 Dungeness crab coastal class B fishery license may only be issued to a
31 person who designated a vessel in the 1994 coastal crab fishery and who
32 designated the same vessel in 1995.

33 **Sec. 109.** RCW 75.30.450 and 1994 c 260 s 16 are each amended to
34 read as follows:

35 (1) (~~It is unlawful for~~) A Dungeness crab coastal fishery
36 (~~licensees to~~) licensee shall not take Dungeness crab in the waters
37 of the exclusive economic zone westward of the states of Oregon or
38 California and land crab taken in those waters into Washington state

1 unless the licensee also holds the licenses, permits, or endorsements,
2 required by Oregon or California to land crab into Oregon or
3 California, respectively.

4 (2) This section becomes effective only upon reciprocal legislation
5 being enacted by both the states of Oregon and California. For
6 purposes of this section, "exclusive economic zone" means that zone
7 defined in the federal fishery conservation and management act (16
8 U.S.C. Sec. 1802) as of January 1, 1995, or as of a subsequent date
9 adopted by rule of the director.

10 **Sec. 110.** RCW 75.58.010 and 1993 sp.s. c 2 s 55 are each amended
11 to read as follows:

12 (1) The director of agriculture and the director shall jointly
13 develop a program of disease inspection and control for aquatic farmers
14 as defined in RCW 15.85.020. The program shall be administered by the
15 department under rules established under this section. The purpose of
16 the program is to protect the aquaculture industry and wildstock
17 fisheries from a loss of productivity due to aquatic diseases or
18 maladies. As used in this section "diseases" means, in addition to its
19 ordinary meaning, infestations of parasites or pests. The disease
20 program may include, but is not limited to, the following elements:

- 21 (a) Disease diagnosis;
- 22 (b) Import and transfer requirements;
- 23 (c) Provision for certification of stocks;
- 24 (d) Classification of diseases by severity;
- 25 (e) Provision for treatment of selected high-risk diseases;
- 26 (f) Provision for containment and eradication of high-risk
27 diseases;
- 28 (g) Provision for destruction of diseased cultured aquatic
29 products;
- 30 (h) Provision for quarantine of diseased cultured aquatic products;
- 31 (i) Provision for coordination with state and federal agencies;
- 32 (j) Provision for development of preventative or control measures;
- 33 (k) Provision for cooperative consultation service to aquatic
34 farmers; and
- 35 (l) Provision for disease history records.

36 (2) The ((director)) commission shall adopt rules implementing this
37 section. However, such rules shall have the prior approval of the
38 director of agriculture and shall provide therein that the director of

1 agriculture has provided such approval. The director of agriculture or
2 the director's designee shall attend the rule-making hearings conducted
3 under chapter 34.05 RCW and shall assist in conducting those hearings.
4 The authorities granted the department by these rules and by RCW
5 75.08.080(1)(g), 75.24.080, 75.24.110, 75.28.125, 75.58.020, 75.58.030,
6 and 75.58.040 constitute the only authorities of the department to
7 regulate private sector cultured aquatic products and aquatic farmers
8 as defined in RCW 15.85.020. Except as provided in subsection (3) of
9 this section, no action may be taken against any person to enforce
10 these rules unless the department has first provided the person an
11 opportunity for a hearing. In such a case, if the hearing is
12 requested, no enforcement action may be taken before the conclusion of
13 that hearing.

14 (3) The rules adopted under this section shall specify the
15 emergency enforcement actions that may be taken by the department, and
16 the circumstances under which they may be taken, without first
17 providing the affected party with an opportunity for a hearing.
18 Neither the provisions of this subsection nor the provisions of
19 subsection (2) of this section shall preclude the department from
20 requesting the initiation of criminal proceedings for violations of the
21 disease inspection and control rules.

22 (4) (~~It is unlawful for any person to~~) A person shall not violate
23 the rules adopted under subsection (2) or (3) of this section or (~~to~~)
24 violate RCW 75.58.040.

25 (5) In administering the program established under this section,
26 the department shall use the services of a pathologist licensed to
27 practice veterinary medicine.

28 (6) The director in administering the program shall not place
29 constraints on or take enforcement actions in respect to the
30 aquaculture industry that are more rigorous than those placed on the
31 department or other fish-rearing entities.

32 **Sec. 111.** RCW 77.08.010 and 1996 c 207 s 2 are each amended to
33 read as follows:

34 As used in this title or Title 75 RCW or rules adopted pursuant to
35 (~~this~~) those titles, unless the context clearly requires otherwise:

36 (1) "Director" means the director of fish and wildlife.

37 (2) "Department" means the department of fish and wildlife.

38 (3) "Commission" means the state fish and wildlife commission.

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

4 (5) "Fish and wildlife ((agent)) officer" means a person appointed
5 and commissioned by the director, with authority to enforce laws and
6 rules adopted pursuant to this title, and other statutes as prescribed
7 by the legislature. Fish and wildlife officer includes a person
8 commissioned before the effective date of this section as a wildlife
9 agent.

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

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

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

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

26 (10) "Open season" means those times, manners of taking, and places
27 or waters established by rule of the commission for the lawful hunting,
28 fishing, or possession of game animals, game birds, or game fish that
29 conform to the special restrictions or physical descriptions
30 established by rule of the commission or that have otherwise been
31 deemed legal to hunt, fish, or possess by rule of the commission.
32 "Open season" includes the first and last days of the established time.

33 (11) "Closed season" means all times, manners of taking, and places
34 or waters other than those established by rule of the commission as an
35 open season. "Closed season" also means all hunting, fishing, or
36 possession of game animals, game birds, or game fish that do not
37 conform to the special restrictions or physical descriptions
38 established by rule of the commission as an open season or that have

1 not otherwise been deemed legal to hunt, fish, or possess by rule of
2 the commission as an open season.

3 (12) "Closed area" means a place where the hunting of some species
4 of wild animals or wild birds is prohibited.

5 (13) "Closed waters" means all or part of a lake, river, stream, or
6 other body of water, where fishing for game fish is prohibited.

7 (14) "Game reserve" means a closed area where hunting for all wild
8 animals and wild birds is prohibited.

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

13 (16) "Wildlife" means all species of the animal kingdom whose
14 members exist in Washington in a wild state. This includes but is not
15 limited to mammals, birds, reptiles, amphibians, fish, and
16 invertebrates. The term "wildlife" does not include feral domestic
17 mammals, the family Muridae of the order Rodentia (old world rats and
18 mice), or those fish, shellfish, and marine invertebrates classified as
19 food fish or shellfish by the director. The term "wildlife" includes
20 all stages of development and the bodily parts of wildlife members.

21 (17) "Wild animals" means those species of the class Mammalia whose
22 members exist in Washington in a wild state and the species *Rana*
23 *catesbeiana* (bullfrog). The term "wild animal" does not include feral
24 domestic mammals or the family Muridae of the order Rodentia (old world
25 rats and mice).

26 (18) "Wild birds" means those species of the class Aves whose
27 members exist in Washington in a wild state.

28 (19) "Protected wildlife" means wildlife designated by the
29 commission that shall not be hunted or fished.

30 (20) "Endangered species" means wildlife designated by the
31 commission as seriously threatened with extinction.

32 (21) "Game animals" means wild animals that shall not be hunted
33 except as authorized by the commission.

34 (22) "Fur-bearing animals" means game animals that shall not be
35 trapped except as authorized by the commission.

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

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

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

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

7 (27) "Person of disability" means a permanently disabled person who
8 is not ambulatory without the assistance of a wheelchair, crutches, or
9 similar devices.

10 (28) "Fish" includes all species classified as game fish or food
11 fish by statute or rule, as well as all fin fish not currently
12 classified as food fish or game fish if such species exist in state
13 waters. The term "fish" includes all stages of development and the
14 bodily parts of fish species.

15 **Sec. 112.** RCW 77.12.055 and 1993 sp.s. c 2 s 67 are each amended
16 to read as follows:

17 (1) (~~Jurisdiction and authority granted under RCW 77.12.060,~~
18 ~~77.12.070, and 77.12.080 to the director, wildlife agents,~~) Fish and
19 wildlife officers and ex officio (~~wildlife agents is limited to the~~
20 ~~laws and rules adopted pursuant to this title pertaining to wildlife or~~
21 ~~to the management, operation, maintenance, or use of or conduct on real~~
22 ~~property used, owned, leased, or controlled by the department~~) fish
23 and wildlife officers shall enforce this title, Title 75 RCW, rules of
24 the department, and other statutes as prescribed by the legislature.
25 However, when acting within the scope of these duties and when an
26 offense occurs in the presence of the (~~wildlife agent~~) fish and
27 wildlife officer who is not an ex officio (~~wildlife agent, the~~
28 ~~wildlife agent~~) fish and wildlife officer, the fish and wildlife
29 officer may enforce all criminal laws of the state. The (~~wildlife~~
30 ~~agent~~) fish and wildlife officer must have successfully completed the
31 basic law enforcement academy course sponsored by the criminal justice
32 training commission, or a (~~supplemental~~) course (~~in criminal law~~
33 ~~enforcement as~~) approved by the department and the criminal justice
34 training commission and provided by the department or the criminal
35 justice training commission, prior to enforcing the criminal laws of
36 the state.

37 (2) (~~Wildlife agents~~) Fish and wildlife officers are peace
38 officers.

1 (3) Any liability or claim of liability (~~which~~) under chapter
2 4.92 RCW that arises out of the exercise or alleged exercise of
3 authority by a (~~wildlife agent~~) fish and wildlife officer rests with
4 the department unless the (~~wildlife agent~~) fish and wildlife officer
5 acts under the direction and control of another agency or unless the
6 liability is otherwise assumed under (~~a written~~) an agreement between
7 the department and another agency.

8 (4) (~~Wildlife agents~~) Fish and wildlife officers may serve and
9 execute warrants and processes issued by the courts.

10 (5) Fish and wildlife officers may enforce RCW 79.01.805 and
11 79.01.810.

12 (6) To enforce the laws of this title and Title 75 RCW, fish and
13 wildlife officers may call to their aid any ex officio fish and
14 wildlife officer or citizen and that person shall render aid.

15 NEW SECTION. Sec. 113. Based upon articulable facts that a person
16 is engaged in fishing or hunting activities, fish and wildlife officers
17 have the authority to temporarily stop the person and check for valid
18 licenses, tags, permits, stamps, or catch record cards, and to inspect
19 all fish and wildlife in possession as well as the equipment being used
20 to ensure compliance with the requirements of this title and Title 75
21 RCW.

22 **Sec. 114.** RCW 77.12.080 and 1987 c 506 s 19 are each amended to
23 read as follows:

24 (~~Wildlife agents~~) Fish and wildlife officers and ex officio
25 (~~wildlife agents~~) fish and wildlife officers may arrest without
26 warrant persons found violating the law or rules adopted pursuant to
27 this title and Title 75 RCW.

28 **Sec. 115.** RCW 77.12.090 and 1987 c 506 s 20 are each amended to
29 read as follows:

30 (~~Wildlife agents,~~) Fish and wildlife officers and ex officio
31 (~~wildlife agents~~) fish and wildlife officers may make a reasonable
32 search without warrant of a vessel, container, or conveyances,
33 vehicles, packages, game baskets, game coats, or other receptacles for
34 fish and wildlife, or tents, camps, or similar places which they have
35 reason to believe contain evidence of a violation of law or rules
36 adopted pursuant to this title or Title 75 RCW and seize evidence as

1 needed for law enforcement. This does not preclude seizure of property
2 if authorized for forfeiture as authorized by law.

3 **Sec. 116.** RCW 77.12.095 and 1982 c 152 s 1 are each amended to
4 read as follows:

5 ~~((Wildlife agents))~~ Fish and wildlife officers may inspect without
6 warrant at reasonable times and in a reasonable manner the premises,
7 containers, fishing equipment, fish, and wildlife, and records required
8 by the department of any ~~((commercial enterprise operating under the~~
9 authority of a license or permit issued by the department or any
10 commercial business that sells, stores, transports, or possesses
11 wildlife)) commercial fisher or wholesale dealer or fish buyer. Fish
12 and wildlife officers may similarly inspect without warrant the
13 premises, containers, fishing equipment, fish and wildlife, and records
14 required by the department of any shipping agent or other person
15 placing or attempting to place fish or wildlife into interstate
16 commerce, any cold storage plant that the department has probable cause
17 to believe contains fish or wildlife, or of any taxidermist or fur
18 buyer. Fish and wildlife officers may inspect without warrant the
19 records required by the department of any retail outlet selling fish or
20 wildlife or both, and, if the officers have probable cause to believe
21 a violation of this title or rules of the commission has occurred, they
22 may inspect without warrant the premises, containers, and fish and
23 wildlife of any retail outlet selling fish or wildlife or both.

24 **Sec. 117.** RCW 77.12.120 and 1980 c 78 s 26 are each amended to
25 read as follows:

26 ~~((Upon complaint showing probable cause for believing that wildlife~~
27 ~~unlawfully caught, taken, killed, controlled, possessed, or~~
28 ~~transported, is concealed or kept in a game basket, game coat, package,~~
29 ~~or other receptacle for wildlife, or at a business place, vehicle, or~~
30 ~~other place, the)) On a showing of probable cause that there has been
31 a violation of any fish or wildlife law of the state of Washington, or
32 upon a showing of probable cause to believe that evidence of such
33 violation may be found at a place, a court shall issue a search warrant
34 ~~((and have the place searched for wildlife))~~ or arrest warrant. Fish
35 and wildlife officers may execute any such arrest or search warrant
36 reasonably necessary to their duties under this title or Title 75 RCW
37 and may seize fish and wildlife or any evidence of a crime and the~~

1 fruits or instrumentalities of a crime as provided by warrant. The
2 court may have a building, enclosure, vehicle, vessel, container, or
3 receptacle opened or entered and the contents examined.

4 **Sec. 118.** RCW 77.16.010 and 1987 c 506 s 58 are each amended to
5 read as follows:

6 ~~((It is unlawful to))~~ A person shall not promote, conduct, hold, or
7 sponsor a contest for the hunting or fishing of wildlife or a
8 competitive field trial involving live wildlife for hunting dogs
9 without first obtaining a hunting or fishing contest permit. Contests
10 and field trials shall be held in accordance with established rules.

11 **Sec. 119.** RCW 77.16.020 and 1996 c 207 s 3 are each amended to
12 read as follows:

13 ~~((1) It is unlawful to hunt, fish, or possess a game animal, game
14 bird, or game fish during closed season for that game animal, game
15 bird, or game fish except as provided in RCW 77.12.105 or 77.12.265.~~

16 ~~(2) It is unlawful to kill, take, catch, possess, or control a
17 game animal, game bird, or game fish in excess of the number fixed as
18 the bag limit for that game animal, game bird, or game fish.~~

19 ~~(3) It is unlawful to hunt within a game reserve or to fish for
20 game fish within closed waters.~~

21 ~~(4) It is unlawful to hunt wild birds or wild animals within a
22 closed area except as authorized by rule of the commission.~~

23 ~~(5) It is unlawful to hunt or fish for wildlife, practice taxidermy
24 for profit, deal in raw furs for profit, act as a fishing guide, or
25 operate a game farm, stock game fish, or collect wildlife for research
26 or display, without having in possession the license, permit, tag,
27 stamp, or catch record card required by chapter 77.32 RCW or rule of
28 the department. The activities described in this subsection shall be
29 conducted in accordance with rules adopted pursuant to this title.~~

30 ~~(6))~~ For the purposes of ~~((this section))~~ establishing a season or
31 bag limit restriction on Canada goose hunting, the department shall not
32 consider leg length or bill length of dusky Canada geese (*Branta*
33 *canadensis occidentalis*).

34 **Sec. 120.** RCW 77.16.095 and 1987 c 506 s 63 are each amended to
35 read as follows:

1 ~~((It is unlawful to mutilate))~~ The commission may adopt rules
2 governing the possession of fish and wildlife so that the size,
3 species, or sex ~~((cannot))~~ can be determined visually in the field or
4 while being transported. ~~((The director may prescribe specific~~
5 ~~criteria for field identification to satisfy this section.))~~

6 **Sec. 121.** RCW 77.16.170 and 1993 sp.s. c 2 s 75 are each amended
7 to read as follows:

8 ~~((It is unlawful to take a wild animal from another person's trap~~
9 ~~without permission, or to spring, pull up, damage, possess, or destroy~~
10 ~~the trap; however, it is not unlawful for))~~ A property owner, lessee,
11 or tenant ~~((to))~~ may remove a trap placed on the owner's, lessee's, or
12 tenant's posted or fenced property by a trapper.

13 Trappers shall attach to the chain of their traps or devices a
14 legible metal tag with either the department identification number of
15 the trapper or the name and address of the trapper in English letters
16 not less than one-eighth inch in height.

17 When ~~((an individual))~~ a property owner, lessee, or tenant presents
18 a trapper identification number to the department for a trap found upon
19 the property of the owner, lessee, or tenant and requests
20 identification of the trapper, the department shall provide the
21 ~~((individual))~~ requestor with the name and address of the trapper.
22 Prior to disclosure of the trapper's name and address, the department
23 shall obtain the name and address of the requesting individual in
24 writing and after disclosing the trapper's name and address to the
25 requesting individual, the requesting individual's name and address
26 shall be disclosed in writing to the trapper whose name and address was
27 disclosed.

28 **Sec. 122.** RCW 77.16.220 and 1980 c 78 s 89 are each amended to
29 read as follows:

30 ~~((It is unlawful to))~~ A person shall not divert water from a lake,
31 river, or stream containing game fish unless the water diversion device
32 is equipped at or near its intake with a fish guard or screen to
33 prevent the passage of game fish into the device and, if necessary,
34 with a means of returning game fish from immediately in front of the
35 fish guard or screen to the waters of origin. A person who is now
36 otherwise lawfully diverting water from a lake, river or stream shall
37 not be deemed guilty of a violation of this section.

1 Plans for the fish guard, screen, and bypass shall be approved by
2 the director prior to construction. The installation shall be approved
3 by the director prior to the diversion of water.

4 The director may close a water diversion device operated in
5 violation of this section and keep it closed until it is properly
6 equipped with a fish guard, screen, or bypass.

7 **Sec. 123. RCW 77.32.350 and 1992 c 41 s 1 are each amended to*
8 *read as follows:*

9 *In addition to a basic hunting license, a supplemental license,*
10 *permit, or stamp is required to hunt for quail, partridge, pheasant, or*
11 *migratory waterfowl, to hunt with a raptor, or to hunt wild animals*
12 *with a dog.*

13 *(1) A hound permit is required to hunt wild animals, except rabbits*
14 *and hares, with a dog. The fee for this permit is twelve dollars.*

15 *(2) An eastern Washington upland game bird permit is required to*
16 *hunt for quail, partridge, and pheasant in eastern Washington. The fee*
17 *for this permit is ten dollars.*

18 *(3) A western Washington upland game bird permit is required to*
19 *hunt for quail, partridge, and pheasant in western Washington. The fee*
20 *for this permit is thirty-five dollars. Western Washington upland game*
21 *bird permits must contain numbered spaces for recording the location*
22 *and date of harvest of each western Washington pheasant. ((It is*
23 *unlawful to)) A person shall not harvest a western Washington pheasant*
24 *without immediately recording this information on the permit.*

25 *(4) Effective January 1, 1993, the permit shall be available as a*
26 *season option, a juvenile full season option, or a two-day option. The*
27 *fee for this permit is:*

28 *(a) For the full season option, thirty-five dollars;*

29 *(b) For the juvenile full season or the two-day option, twenty*
30 *dollars.*

31 *For the purposes of this subsection a juvenile is defined as a*
32 *person under fifteen years of age upon the opening date of the western*
33 *Washington pheasant season.*

34 *(5) Western Washington upland game permits are valid for the*
35 *following number of pheasants and harvesting pheasants in excess of*
36 *these numbers requires another permit:*

37 *(a) A full season permit is valid for no more than ten pheasants;*

1 (b) A juvenile full season permit is valid for no more than six
2 pheasants;

3 (c) A two-day permit is valid for no more than four pheasants.

4 (6) A falconry license is required to possess or hunt with a
5 raptor, including seasons established exclusively for hunting in that
6 manner. The fee for this license is thirty-six dollars.

7 (7) A migratory waterfowl stamp affixed to a basic hunting license
8 is required for all persons sixteen years of age or older to hunt
9 migratory waterfowl. The fee for the stamp is six dollars.

10 (8) The migratory waterfowl stamp shall be validated by the
11 signature of the licensee written across the face of the stamp.

12 (9) The migratory waterfowl stamps required by this section expire
13 on March 31st following the date of issuance.

14 *Sec. 123 was vetoed. See message at end of chapter.

15 NEW SECTION. **Sec. 124.** REPEALER. The following acts or parts of
16 acts are each repealed:

17 (1) RCW 75.10.010 and 1996 c 267 s 4;

18 (2) RCW 75.10.020 and 1996 c 267 s 5, 1983 1st ex.s. c 46 s 33, &
19 1955 c 12 s 75.08.170;

20 (3) RCW 75.10.030 and 1996 c 267 s 6, 1990 c 144 s 5, 1983 1st
21 ex.s. c 46 s 34, & 1955 c 12 s 75.36.010;

22 (4) RCW 75.10.040 and 1996 c 267 s 7, 1983 1st ex.s. c 46 s 35,
23 1980 c 78 s 134, & 1955 c 12 s 75.08.200;

24 (5) RCW 75.10.050 and 1996 c 267 s 8, 1983 1st ex.s. c 46 s 36, &
25 1955 c 12 s 75.08.280;

26 (6) RCW 75.10.060 and 1983 1st ex.s. c 46 s 37 & 1955 c 12 s
27 75.36.040;

28 (7) RCW 75.10.080 and 1983 1st ex.s. c 46 s 39 & 1955 c 12 s
29 75.36.050;

30 (8) RCW 75.10.090 and 1983 1st ex.s. c 46 s 40 & 1955 c 12 s
31 75.08.180;

32 (9) RCW 75.10.110 and 1996 c 267 s 10, 1990 c 144 s 6, 1987 c 380
33 s 16, 1983 1st ex.s. c 46 s 42, 1979 ex.s. c 99 s 1, & 1955 c 12 s
34 75.08.260;

35 (10) RCW 75.10.120 and 1996 c 267 s 11, 1990 c 144 s 7, 1983 1st
36 ex.s. c 46 s 43, 1979 ex.s. c 99 s 2, 1957 c 171 s 5, & 1955 c 12 s
37 75.28.380;

1 (11) RCW 75.10.130 and 1996 c 267 s 12, 1983 1st ex.s. c 46 s 44,
2 & 1979 ex.s. c 99 s 3;
3 (12) RCW 75.10.140 and 1996 c 267 s 13, 1990 c 163 s 7, 1984 c 80
4 s 4, 1983 1st ex.s. c 46 s 45, & 1979 ex.s. c 141 s 7;
5 (13) RCW 75.10.170 and 1996 c 267 s 15 & 1990 c 63 s 5;
6 (14) RCW 75.10.180 and 1996 c 267 s 16 & 1990 c 144 s 1;
7 (15) RCW 75.10.190 and 1996 c 267 s 17 & 1990 c 144 s 2;
8 (16) RCW 75.10.200 and 1996 c 267 s 18, 1993 sp.s. c 2 s 26, & 1990
9 c 144 s 3;
10 (17) RCW 75.10.210 and 1990 c 144 s 4;
11 (18) RCW 75.12.020 and 1996 c 267 s 19, 1983 1st ex.s. c 46 s 49,
12 & 1955 c 12 s 75.12.020;
13 (19) RCW 75.12.031 and 1983 1st ex.s. c 46 s 51 & 1955 c 12 s
14 75.20.070;
15 (20) RCW 75.12.070 and 1996 c 267 s 20, 1983 1st ex.s. c 46 s 53,
16 & 1955 c 12 s 75.12.070;
17 (21) RCW 75.12.090 and 1990 c 144 s 8, 1983 1st ex.s. c 46 s 54,
18 1982 c 14 s 1, & 1955 c 12 s 75.12.090;
19 (22) RCW 75.12.100 and 1996 c 267 s 21, 1983 1st ex.s. c 46 s 55,
20 & 1955 c 12 s 75.12.100;
21 (23) RCW 75.12.115 and 1996 c 267 s 22, 1983 1st ex.s. c 46 s 56,
22 & 1971 ex.s. c 106 s 1;
23 (24) RCW 75.12.120 and 1985 c 51 s 7, 1983 1st ex.s. c 46 s 57, &
24 1955 c 12 s 75.12.120;
25 (25) RCW 75.12.125 and 1983 1st ex.s. c 46 s 58;
26 (26) RCW 75.12.127 and 1993 c 340 s 49;
27 (27) RCW 75.12.400 and 1983 1st ex.s. c 46 s 64 & 1982 c 14 s 2;
28 (28) RCW 75.12.410 and 1983 1st ex.s. c 46 s 66 & 1955 c 12 s
29 75.08.130;
30 (29) RCW 75.12.420 and 1996 c 267 s 23, 1983 1st ex.s. c 46 s 67,
31 & 1955 c 12 s 75.08.210;
32 (30) RCW 75.12.430 and 1983 1st ex.s. c 46 s 68 & 1955 c 12 s
33 75.08.220;
34 (31) RCW 75.24.050 and 1996 c 267 s 25, 1983 1st ex.s. c 46 s 80,
35 & 1955 c 12 s 75.24.050;
36 (32) RCW 75.24.090 and 1996 c 267 s 26, 1983 1st ex.s. c 46 s 84,
37 1955 c 212 s 7, & 1955 c 12 s 75.24.090;
38 (33) RCW 75.25.150 and 1994 c 255 s 7, 1993 sp.s. c 17 s 9, 1989 c
39 305 s 13, 1984 c 80 s 9, & 1983 1st ex.s. c 46 s 99;

1 (34) RCW 77.12.060 and 1987 c 506 s 17, 1980 c 78 s 18, 1961 c 68
2 s 1, & 1955 c 36 s 77.12.060;

3 (35) RCW 77.12.070 and 1987 c 506 s 18, 1980 c 78 s 19, 1971 ex.s.
4 c 173 s 1, 1961 c 68 s 2, & 1955 c 36 s 77.12.070;

5 (36) RCW 77.16.040 and 1987 c 506 s 60, 1980 c 78 s 72, 1971 ex.s.
6 c 166 s 4, 1961 c 75 s 1, & 1955 c 36 s 77.16.040;

7 (37) RCW 77.16.050 and 1980 c 78 s 73 & 1955 c 36 s 77.16.050;

8 (38) RCW 77.16.060 and 1993 sp.s. c 2 s 73, 1987 c 506 s 61, 1980
9 c 78 s 74, & 1955 c 36 s 77.16.060;

10 (39) RCW 77.16.080 and 1987 c 506 s 62, 1980 c 78 s 76, & 1955 c 36
11 s 77.16.080;

12 (40) RCW 77.16.090 and 1980 c 78 s 77 & 1955 c 36 s 77.16.090;

13 (41) RCW 77.16.100 and 1980 c 78 s 79, 1977 ex.s. c 275 s 1, & 1955
14 c 36 s 77.16.100;

15 (42) RCW 77.16.110 and 1987 c 506 s 64, 1980 c 78 s 80, & 1955 c 36
16 s 77.16.110;

17 (43) RCW 77.16.120 and 1980 c 78 s 81 & 1955 c 36 s 77.16.120;

18 (44) RCW 77.16.130 and 1987 c 506 s 65, 1980 c 78 s 82, & 1955 c 36
19 s 77.16.130;

20 (45) RCW 77.16.150 and 1987 c 506 s 66, 1980 c 78 s 83, & 1955 c 36
21 s 77.16.150;

22 (46) RCW 77.16.160 and 1980 c 78 s 84 & 1955 c 36 s 77.16.160;

23 (47) RCW 77.16.180 and 1987 c 506 s 67, 1980 c 78 s 86, & 1955 c 36
24 s 77.16.180;

25 (48) RCW 77.16.190 and 1980 c 78 s 87 & 1955 c 36 s 77.16.190;

26 (49) RCW 77.16.250 and 1989 c 297 s 5, 1980 c 78 s 93, & 1955 c 36
27 s 77.16.250;

28 (50) RCW 77.16.260 and 1980 c 78 s 94, 1955 c 85 s 1, & 1955 c 36
29 s 77.16.260;

30 (51) RCW 77.16.310 and 1981 c 310 s 4, 1980 c 78 s 125, & 1979
31 ex.s. c 127 s 1;

32 (52) RCW 77.16.320 and 1987 c 506 s 68, 1981 c 310 s 5, & 1980 c 44
33 s 1;

34 (53) RCW 77.16.330 and 1987 c 506 s 104 & 1985 c 243 s 3;

35 (54) RCW 77.16.610 and 1982 c 155 s 3;

36 (55) RCW 77.21.010 and 1988 c 265 s 3;

37 (56) RCW 77.21.040 and 1989 c 314 s 5, 1987 c 506 s 72, 1980 c 78
38 s 25, & 1955 c 36 s 77.12.110; and

1 (57) RCW 77.21.060 and 1989 c 314 s 6, 1987 c 506 s 73, 1980 c 78
2 s 122, & 1955 c 36 s 77.32.260.

3 NEW SECTION. **Sec. 125.** RECODIFICATION. The following sections
4 are recodified as new sections in the chapter created in section 128 of
5 this act:

6 RCW 75.10.100

7 RCW 75.10.220

8 RCW 75.12.320

9 RCW 77.12.120

10 RCW 77.12.130

11 RCW 77.16.135

12 NEW SECTION. **Sec. 126.** SHORT TITLE. This chapter may be known
13 and cited as the fish and wildlife enforcement code.

14 NEW SECTION. **Sec. 127.** CAPTIONS NOT LAW. Captions used in this
15 chapter are not any part of the law.

16 NEW SECTION. **Sec. 128.** Sections 1 through 48, 50 through 66, 68,
17 69, 113, 126, and 127 of this act constitute a new chapter in Title 77
18 RCW.

19 NEW SECTION. **Sec. 129.** The enactment of chapter . . ., Laws of
20 1998 (this act) does not terminate, or in any way modify, any
21 liability, civil or criminal, that was in existence on the effective
22 date of this section.

Passed the Senate March 11, 1998.

Passed the House March 10, 1998.

Approved by the Governor March 27, 1998, with the exception of
certain items that were vetoed.

Filed in Office of Secretary of State March 27, 1998.

1 Note: Governor's explanation of partial veto is as follows:

2 "I am returning herewith, without my approval as to section 123,
3 Engrossed Substitute Senate Bill No. 6328 entitled:

4 "AN ACT Relating to fish and wildlife code enforcement;"

5 The codes for the former Departments of Fish and Wildlife were not
6 properly dealt with when those departments were merged several years
7 ago. ESSB 6328 consolidates and standardizes the enforcement code for
8 the Department of Fish and Wildlife. This bill is long overdue, and I
9 commend the Department and the Legislature for their hard work in
10 developing this legislation.

1 Section 123 of ESSB 6328 amends a part of the statute that is also
2 amended in SSB 6330. The double amendment appears to have been
3 unintended, and would cause confusion.

4 For this reason, I have vetoed section 123 of Engrossed Substitute
5 Senate Bill No. 6328.

6 With the exception of section 123, Engrossed Substitute Senate Bill
7 No. 6328 is approved."