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SENATE BILL 6521

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State of Washington

56th Legislature

2000 Regular Session

By Senators Fraser, Jacobsen and Snyder; by request of Department of Fish and Wildlife

Read first time . Referred to Committee on .

1 AN ACT Relating to hydraulic projects; and amending RCW 75.20.106  
2 and 77.15.300.

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

4 **Sec. 1.** RCW 75.20.106 and 1993 sp.s. c 2 s 35 are each amended to  
5 read as follows:

6 ~~((The department may levy civil penalties of up to one hundred  
7 dollars per day for violation of any provisions of RCW 75.20.100 or  
8 75.20.103. The penalty provided shall be imposed by notice in writing,  
9 either by certified mail or personal service to the person incurring  
10 the penalty, from the director or the director's designee describing  
11 the violation. Any person incurring any penalty under this chapter may  
12 appeal the same under chapter 34.05 RCW to the director. Appeals shall  
13 be filed within thirty days of receipt of notice imposing any penalty.  
14 The penalty imposed shall become due and payable thirty days after  
15 receipt of a notice imposing the penalty unless an appeal is filed.  
16 Whenever an appeal of any penalty incurred under this chapter is filed,  
17 the penalty shall become due and payable only upon completion of all  
18 review proceedings and the issuance of a final order confirming the  
19 penalty in whole or in part.~~

1 If the amount of any penalty is not paid within thirty days after  
2 it becomes due and payable the attorney general, upon the request of  
3 the director shall bring an action in the name of the state of  
4 Washington in the superior court of Thurston county or of any county in  
5 which such violator may do business, to recover such penalty. In all  
6 such actions the procedure and rules of evidence shall be the same as  
7 an ordinary civil action. All penalties recovered under this section  
8 shall be paid into the state's general fund.))

9 (1) If any person or government agency fails to follow the  
10 requirements of obtaining hydraulic project approval under this chapter  
11 or fails to carry out any of the requirements or conditions of a  
12 hydraulic project approval issued under this chapter, the department  
13 may issue an order to that person or government agency. The order may  
14 require the person or government agency to stop work on any or all of  
15 the activities subject to the hydraulic project approval, to correct or  
16 to restore the nonconforming site, or to both stop work and to correct  
17 or to restore the nonconforming site. Within twenty days of service of  
18 such an order or as provided by rule of the department extending such  
19 time, the person may file a written petition with the department  
20 appealing the order, and this petition shall be treated as an  
21 application for an adjudicative proceeding under chapter 34.05 RCW. In  
22 the event of an appeal, a person or government agency may seek interim  
23 relief from an order under this section as provided in chapter 34.05  
24 RCW.

25 (2) The department may adopt rules to designate that certain  
26 violations of the terms or conditions of hydraulic project approval are  
27 an infraction to be punished as provided by RCW 77.15.160. Any  
28 punishment under chapter 77.15 RCW shall be supplemental to the remedy  
29 provided by subsection (1) of this section.

30 **Sec. 2.** RCW 77.15.300 and 1998 c 190 s 52 are each amended to read  
31 as follows:

32 (1) A person is guilty of unlawfully undertaking hydraulic project  
33 activities if the person:

34 (a) Constructs any form of hydraulic project or performs other work  
35 on a hydraulic project and((÷

36 (a))) fails to have a hydraulic project approval required under  
37 chapter 75.20 RCW for such construction or work; ((øx))

1 (b) Violates any requirements or conditions of the hydraulic  
2 project approval for such construction or work;

3 (c) Violates any stop work or other order issued under RCW  
4 75.20.106 if that order has been either served on the person or posted  
5 at the site of the violation, except if the person acts in accordance  
6 with any relief under chapter 34.05 RCW pursuant to a timely appeal or  
7 timely relief from the department order; or

8 (d) Violates any rule governing small scale mining adopted under  
9 RCW 75.20.330, except if such a rule violation has been designated as  
10 an infraction by rule of the department.

11 (2) Unlawfully undertaking hydraulic project activities is a gross  
12 misdemeanor.

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