

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5638

Chapter 258, Laws of 1999

56th Legislature
1999 Regular Session

FISH AND WILDLIFE ENFORCEMENT CODE

EFFECTIVE DATE: 7/25/99

Passed by the Senate April 21, 1999
YEAS 43 NAYS 0

BRAD OWEN
President of the Senate

Passed by the House April 6, 1999
YEAS 93 NAYS 0

CLYDE BALLARD
**Speaker of the
House of Representatives**

FRANK CHOPP
**Speaker of the
House of Representatives**

Approved May 10, 1999

GARY LOCKE
Governor of the State of Washington

CERTIFICATE

I, Tony M. Cook, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5638** as passed by the Senate and the House of Representatives on the dates hereon set forth.

TONY M. COOK
Secretary

FILED

May 10, 1999 - 4:48 p.m.

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5638

AS AMENDED BY THE HOUSE

Passed Legislature - 1999 Regular Session

State of Washington 56th Legislature 1999 Regular Session

By Senate Committee on Natural Resources, Parks & Recreation
(originally sponsored by Senators Hargrove, Oke, Morton and T. Sheldon;
by request of Department of Fish and Wildlife)

Read first time 02/26/1999.

1 AN ACT Relating to making corrections to the fish and wildlife
2 enforcement code; amending RCW 77.15.030, 77.15.400, 77.15.410,
3 77.15.430, 77.15.170, 77.15.230, 77.15.460, 77.15.600, 77.15.190,
4 77.15.550, 77.15.670, and 77.16.070; and repealing RCW 77.15.200, and
5 77.32.094.

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

7 **Sec. 1.** RCW 77.15.030 and 1998 c 190 s 4 are each amended to read
8 as follows:

9 Where it is unlawful to hunt, take, fish, ~~((or))~~ possess, or
10 traffic in big game or protected or endangered fish or wildlife, then
11 each individual animal unlawfully taken or possessed is a separate
12 offense.

13 **Sec. 2.** RCW 77.15.400 and 1998 c 190 s 9 are each amended to read
14 as follows:

15 (1) A person is guilty of unlawful hunting of ~~((game))~~ wild birds
16 in the second degree if the person:

1 (a) Hunts for, takes, or possesses a ((game)) wild bird and the
2 person does not have and possess all licenses, tags, stamps, and
3 permits required under this title;

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

6 (c) Violates any rule of the commission or director regarding
7 seasons, bag or possession limits but less than two times the bag or
8 possession limit, closed areas ((including game reserves)), closed
9 times, or other rule addressing the manner or method of hunting or
10 possession of ((game)) wild birds; or

11 (d) Possesses a wild bird taken during a closed season for that
12 wild bird or taken from a closed area for that wild bird.

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

17 (3)(a) Unlawful hunting of ((game)) wild birds in the second degree
18 is a misdemeanor.

19 (b) Unlawful hunting of ((game)) wild birds in the first degree is
20 a gross misdemeanor.

21 **Sec. 3.** RCW 77.15.410 and 1998 c 190 s 10 are each amended to read
22 as follows:

23 (1) A person is guilty of unlawful hunting of big game in the
24 second degree if the person:

25 (a) Hunts for, takes, or possesses big game and the person does not
26 have and possess all licenses, tags, or permits required under this
27 title; ((or))

28 (b) Violates any rule of the commission or director regarding
29 seasons, bag or possession limits, closed areas including game
30 reserves, closed times, or any other rule governing the hunting,
31 taking, or possession of big game; or

32 (c) Possesses big game taken during a closed season for that big
33 game or taken from a closed area for that big game.

34 (2) A person is guilty of unlawful hunting of big game in the first
35 degree if the person was previously convicted of any crime under this
36 title involving unlawful hunting, killing, possessing, or taking big
37 game, and within five years of the date that the prior conviction was
38 entered the person:

1 (a) Hunts for big game and
2 ~~(a) The person~~) does not have and possess all licenses, tags, or
3 permits required under this title; ~~((or))~~

4 ~~((The act was))~~ Acts in violation of any rule of the commission
5 or director regarding seasons, bag or possession limits, closed areas
6 including game reserves, or closed times; or

7 (c) Possesses big game taken during a closed season for that big
8 game or taken from a closed area for that big game.

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

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

15 **Sec. 4.** RCW 77.15.430 and 1998 c 190 s 11 are each amended to read
16 as follows:

17 (1) A person is guilty of unlawful hunting of ~~((game))~~ wild animals
18 in the second degree if the person:

19 (a) Hunts for, takes, or possesses a ~~((game))~~ wild animal that is
20 not classified as big game, and does not have and possess all licenses,
21 tags, or permits required by this title; ~~((or))~~

22 (b) Violates any rule of the commission or director regarding
23 seasons, bag or possession limits but less than two times the bag or
24 possession limit, closed areas including game reserves, closed times,
25 or other rule addressing the manner or method of hunting or possession
26 of ~~((game))~~ wild animals not classified as big game; or

27 (c) Possesses a wild animal that is not classified as big game
28 taken during a closed season for that wild animal or from a closed area
29 for that wild animal.

30 (2)~~((a))~~ A person is guilty of unlawful hunting of ~~((game))~~ wild
31 animals in the first degree if the person ~~((hunts a game animal that is~~
32 ~~not classified as big game; and~~

33 ~~(b) The person~~) takes or possesses two times or more than the
34 possession or bag limit for ~~((such game))~~ wild animals that are not
35 classified as big game animals as allowed by rule of the commission or
36 director.

37 (3)(a) Unlawful hunting of ~~((game))~~ wild animals in the second
38 degree is a misdemeanor.

1 (b) Unlawful hunting of (~~game~~) wild animals in the first degree
2 is a gross misdemeanor.

3 **Sec. 5.** RCW 77.15.170 and 1998 c 190 s 21 are each amended to read
4 as follows:

5 (1) A person is guilty of waste of fish and wildlife in the second
6 degree if:

7 (a) The person kills, takes, or possesses fish, shellfish, or
8 wildlife and the value of the fish, shellfish, or wildlife is greater
9 than twenty dollars but less than two hundred fifty dollars; and

10 (b) The person recklessly allows such fish, shellfish, or wildlife
11 to be wasted.

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

14 (a) The person kills, takes, or possesses (~~food~~) fish, shellfish,
15 (~~game fish, game birds,~~) or (~~game animals~~) wildlife having a value
16 of two hundred fifty dollars or more or wildlife classified as big
17 game; and

18 (b) The person recklessly allows such fish, shellfish, or wildlife
19 to be wasted.

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

22 (b) Waste of fish and wildlife in the first degree is a gross
23 misdemeanor. Upon conviction, the department shall revoke any license
24 or tag used in the crime and shall order suspension of the person's
25 privileges to engage in the activity in which the person committed
26 waste of fish and wildlife in the first degree for a period of one
27 year.

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

33 **Sec. 6.** RCW 77.15.230 and 1998 c 190 s 26 are each amended to read
34 as follows:

35 (1) A person is guilty of unlawful use of department lands or
36 facilities if the person enters upon, uses, or remains upon department_

1 owned or department-controlled lands or facilities in violation of any
2 rule of the department.

3 (2) Unlawful use of department lands or facilities is a
4 misdemeanor.

5 **Sec. 7.** RCW 77.15.460 and 1998 c 190 s 28 are each amended to read
6 as follows:

7 (1) A person is guilty of unlawful possession of a loaded firearm
8 in a motor vehicle if:

9 (a) The person carries, transports, conveys, possesses, or controls
10 a rifle or shotgun in or on a motor vehicle; and

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

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

17 (3) Unlawful possession of a loaded firearm in a motor vehicle or
18 unlawful use of a loaded firearm is a misdemeanor.

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

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

22 (b) Possesses a disabled hunter's permit as provided by RCW
23 77.32.237 and complies with all rules of the department concerning
24 hunting by persons with disabilities.

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

28 **Sec. 8.** RCW 77.15.600 and 1998 c 190 s 32 are each amended to read
29 as follows:

30 (1) A person is guilty of engaging in commercial wildlife activity
31 without a license if the person:

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

34 (b) Practices taxidermy for (~~profit~~) commercial purposes and does
35 not hold a taxidermy license required by chapter 77.32 RCW(~~or~~

36 ~~(c) Operates a game farm without a license required by chapter~~
37 ~~77.32 RCW~~)).

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

3 **Sec. 9.** RCW 77.15.190 and 1998 c 190 s 34 are each amended to read
4 as follows:

5 (1) A person is guilty of unlawful trapping if the person:

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

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

13 (c) Fails to identify the owner of the traps or devices by neither
14 (i) attaching a metal tag with the owner's department-assigned
15 identification number or the name and address of the trapper legibly
16 written in numbers or letters not less than one-eighth inch in height
17 nor (ii) inscribing into the metal of the trap such number or name and
18 address.

19 (2) Unlawful trapping is a misdemeanor.

20 **Sec. 10.** RCW 77.15.550 and 1998 c 190 s 40 are each amended to
21 read as follows:

22 (1) A person is guilty of violating commercial fishing area or time
23 in the second degree if the person acts for commercial purposes and
24 takes, fishes for, possesses, delivers, or receives food fish or
25 shellfish:

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

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

29 (c) If such fish or shellfish do not conform to the special
30 restrictions or physical descriptions established by rule of the
31 department.

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

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

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

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

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

7 **Sec. 11.** RCW 77.15.670 and 1998 c 190 s 60 are each amended to
8 read as follows:

9 (1) A person is guilty of ~~((unlawful hunting or fishing when))~~
10 violating a suspension of department privileges ((are revoked or
11 suspended)) in the second degree if the person ~~((hunts or fishes and~~
12 ~~the person's privilege to engage in such hunting or fishing))~~ engages
13 in any activity that is licensed by the department and the person's
14 privileges to engage in that activity were revoked or suspended by any
15 court or the department.

16 (2) A person is guilty of ~~((unlawful hunting or fishing when))~~
17 violating a suspension of department privileges ((are revoked or
18 suspended)) in the first degree if the person commits the act described
19 by subsection (1) of this section and:

20 (a) The suspension of privileges that was violated was a permanent
21 suspension;

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

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

27 (3)(a) ~~((Unlawful hunting or fishing when))~~ Violating a suspension
28 of department privileges ((are revoked or suspended)) in the second
29 degree is a gross misdemeanor. Upon conviction, the department shall
30 order permanent suspension of the person's privileges to engage in such
31 hunting or fishing activities.

32 (b) ~~((Unlawful hunting or fishing when))~~ Violating a suspension of
33 department privileges ((are revoked or suspended)) in the first degree
34 is a class C felony. Upon conviction, the department shall order
35 permanent suspension of all privileges to hunt, fish, trap, or take
36 wildlife, food fish, or shellfish.

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

1 **Sec. 12.** RCW 77.16.070 and 1980 c 78 s 75 are each amended to read
2 as follows:

3 (~~It is unlawful to hunt~~) (1) A person is guilty of hunting while
4 under the influence of intoxicating liquor or drugs if the person hunts
5 wild animals or wild birds while under the influence of intoxicating
6 liquor or drugs.

7 (2) Hunting while under the influence of intoxicating liquor or
8 drugs is a gross misdemeanor.

9 NEW SECTION. **Sec. 13.** The following acts or parts of acts are
10 each repealed:

11 (1) RCW 77.15.200 (Furbearing animal traps--Failure to identify--
12 Penalty) and 1998 c 190 s 23; and

13 (2) RCW 77.32.094 (Validity of licenses issued by department of
14 fisheries and department of wildlife) and 1994 c 255 s 14.

Passed the Senate April 21, 1999.

Passed the House April 6, 1999.

Approved by the Governor May 10, 1999.

Filed in Office of Secretary of State May 10, 1999.