
**Fisheries, Ecology & Parks
Committee**

HB 1025

Brief Description: Allowing certain first-time hunting and fishing violations to be treated as natural resource infractions.

Sponsors: Representatives Nixon, Wood and Mielke.

Brief Summary of Bill

- Establishes that the first offense of certain Fish and Wildlife Code violations are civil, and not criminal, infractions.
- Limits the property seizure authority of Fish and Wildlife Code enforcement agents to instances where a criminal penalty will be pursued.
- Requires the Department of Fish and Wildlife to follow set guidelines when publishing recreational hunting or fishing rules.
- Requires certain information to appear on hunting and fishing license applications.

Hearing Date: 2/14/03

Staff: Jason Callahan (786-7117).

Background:

The Fish and Wildlife Enforcement Code (Code) contains a number of unlawful acts that relate to hunting, fishing, and other wildlife related activities (RCW chapter 77.15). The penalties for violating these regulations range from civil natural resources infractions, to misdemeanors and felonies.

In addition to the violations outlined in the Code, the Fish and Wildlife Commission (Commission) has the authority to adopt rules that regulate the harvest of wildlife and fish. Rules adopted by the Commission can be enforced with criminal sanctions, and serve as a basis for some of the crimes expressly outlined in the Code. If a rule is not an element of a statutory crime, the Commission has the authority to provide for civil enforcement of the rule (RCW 77.15.020).

Code violations that are not expressly directed to be enforced with criminal sanctions may be enforced with a civil natural resource infractions (RCW chapter 7.84). The exact monetary penalty for a natural resource infraction is set by the Supreme Court; however, the Legislature has limited the fine to no less than ten dollars and no more than five hundred dollars.

Misdemeanor violations of the Code are punishable by up to 90 days in jail and a fine of up to \$1000 (RCW 9.92.030). Gross misdemeanors are punishable by up to one year in jail and a fine of up to \$5000 dollars (RCW 9.92.020), and felonies can result in a prison sentence of up to 10 years and a fine of up to \$20,000 (RCW 9.92.010).

In addition to arrest authority, fish and wildlife enforcement officers have the authority to seize without warrant items that are believed to have been used to violate the Code (RCW 77.15.070). Enforcement officers must have probable cause to believe that the item was used in furtherance of a violation. The seizure authority extends to boats, airplanes, vehicles, gear, appliances, and other articles used to violate the Code.

Summary of Bill:

First-time violations of certain provisions of the Code are decriminalized and enforced as civil natural resource infractions. Subsequent infractions of the same law will result in criminal prosecution. The Code violations effected are as follows:

- Unlawful taking of unclassified fish or wildlife (RCW 77.15.140)
- Waste of fish and wildlife in the second degree (RCW 77.15.170)
- Unlawful use of department lands and facilities (RCW 77.15.230)
- Violating rules requiring reporting of harvest (RCW 77.15.280)
- Unlawful recreational fishing in the second degree (RCW 77.15.380)
- Unlawful taking of seaweed (RCW 77.15.390)
- Unlawful hunting of wild birds in the second degree (RCW 77.15.400)
- Unlawful hunting of wild animals in the second degree (RCW 77.15.430)
- Unlawful use of weapons, traps, or dogs on game reserves (RCW 77.15.440)

The authority of Department of Fish and Wildlife (Department) enforcement officers to seize property is limited to individuals who will be charged with a criminal infraction. First-time violators of the effected Code provisions, and other individuals charged with a natural resource infraction, may not have their property seized without a warrant.

The Department is instructed to inform the sporting public of the requirements of the Code. This must be accomplished by the preparation and distribution of a rules pamphlet. The front cover of the publication must contain a clear warning that explains the duty of hunters and fishers to abide by the rules of the Commission, the possible financial and criminal penalties that can result from failure to abide by the Code, and a statement that different water bodies and areas of the state may be governed by different rules. In addition, a similar warning must appear on the application form for all recreational licenses.

Appropriation: None.

Fiscal Note: Not Requested.

Effective Date: The bill takes effect ninety days after adjournment of session in which bill is passed.