
HOUSE BILL 1024

State of Washington

58th Legislature

2003 Regular Session

By Representative Nixon

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Committee on Fisheries, Ecology & Parks.

1 AN ACT Relating to waterbody-specific recreational fishing rules;
2 and amending RCW 77.08.010, 77.04.090, and 77.12.047.

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

4 **Sec. 1.** RCW 77.08.010 and 2002 c 281 s 2 are each amended to read
5 as follows:

6 As used in this title or rules adopted under this title, unless the
7 context clearly requires otherwise:

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

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

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

11 (4) "Person" means and includes an individual; a corporation; a
12 public or private entity or organization; a local, state, or federal
13 agency; all business organizations, including corporations and
14 partnerships; or a group of two or more individuals acting with a
15 common purpose whether acting in an individual, representative, or
16 official capacity.

17 (5) "Fish and wildlife officer" means a person appointed and
18 commissioned by the director, with authority to enforce this title and
19 rules adopted pursuant to this title, and other statutes as prescribed

1 by the legislature. Fish and wildlife officer includes a person
2 commissioned before June 11, 1998, as a wildlife agent or a fisheries
3 patrol officer.

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

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

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

17 (9) "To fish," "to harvest," and "to take," and their derivatives
18 means an effort to kill, injure, harass, or catch a fish or shellfish.

19 (10) "Open season" means those times, manners of taking, and places
20 or waters established by rule of the commission for the lawful hunting,
21 fishing, taking, or possession of game animals, game birds, game fish,
22 food fish, or shellfish that conform to the special restrictions or
23 physical descriptions established by rule of the commission or that
24 have otherwise been deemed legal to hunt, fish, take, harvest, or
25 possess by rule of the commission. "Open season" includes the first
26 and last days of the established time.

27 (11) "Closed season" means all times, manners of taking, and places
28 or waters other than those established by rule of the commission as an
29 open season. "Closed season" also means all hunting, fishing, taking,
30 or possession of game animals, game birds, game fish, food fish, or
31 shellfish that do not conform to the special restrictions or physical
32 descriptions established by rule of the commission as an open season or
33 that have not otherwise been deemed legal to hunt, fish, take, harvest,
34 or possess by rule of the commission as an open season.

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

37 (13) "Closed waters" means all or part of a lake, river, stream, or
38 other body of water, where fishing or harvesting is prohibited.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 (29) "Raffle" means an activity in which tickets bearing an
13 individual number are sold for not more than twenty-five dollars each
14 and in which a permit or permits are awarded to hunt or for access to
15 hunt big game animals or wild turkeys on the basis of a drawing from
16 the tickets by the person or persons conducting the raffle.

17 (30) "Youth" means a person fifteen years old for fishing and under
18 sixteen years old for hunting.

19 (31) "Senior" means a person seventy years old or older.

20 (32) "License year" means the period of time for which a
21 recreational license is valid. The license year begins April 1st, and
22 ends March 31st.

23 (33) "Saltwater" means those marine waters seaward of river mouths.

24 (34) "Freshwater" means all waters not defined as saltwater
25 including, but not limited to, rivers upstream of the river mouth,
26 lakes, ponds, and reservoirs.

27 (35) "State waters" means all marine waters and fresh waters within
28 ordinary high water lines and within the territorial boundaries of the
29 state.

30 (36) "Offshore waters" means marine waters of the Pacific Ocean
31 outside the territorial boundaries of the state, including the marine
32 waters of other states and countries.

33 (37) "Concurrent waters of the Columbia river" means those waters
34 of the Columbia river that coincide with the Washington-Oregon state
35 boundary.

36 (38) "Resident" means a person who has maintained a permanent place
37 of abode within the state for at least ninety days immediately

1 preceding an application for a license, has established by formal
2 evidence an intent to continue residing within the state, and who is
3 not licensed to hunt or fish as a resident in another state.

4 (39) "Nonresident" means a person who has not fulfilled the
5 qualifications of a resident.

6 (40) "Shellfish" means those species of marine and freshwater
7 invertebrates that have been classified and that shall not be taken
8 except as authorized by rule of the commission. The term "shellfish"
9 includes all stages of development and the bodily parts of shellfish
10 species.

11 (41) "Commercial" means related to or connected with buying,
12 selling, or bartering.

13 (42) "To process" and its derivatives mean preparing or preserving
14 fish, wildlife, or shellfish.

15 (43) "Personal use" means for the private use of the individual
16 taking the fish or shellfish and not for sale or barter.

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

20 (45) "Fishery" means the taking of one or more particular species
21 of fish or shellfish with particular gear in a particular geographical
22 area.

23 (46) "Limited-entry license" means a license subject to a license
24 limitation program established in chapter 77.70 RCW.

25 (47) "Seaweed" means marine aquatic plant species that are
26 dependent upon the marine aquatic or tidal environment, and exist in
27 either an attached or free floating form, and includes but is not
28 limited to marine aquatic plants in the classes Chlorophyta,
29 Phaeophyta, and Rhodophyta.

30 (48) "Trafficking" means offering, attempting to engage, or
31 engaging in sale, barter, or purchase of fish, shellfish, wildlife, or
32 deleterious exotic wildlife.

33 (49) "Invasive species" means a plant species or a nonnative animal
34 species that either:

35 (a) Causes or may cause displacement of, or otherwise threatens,
36 native species in their natural communities;

37 (b) Threatens or may threaten natural resources or their use in the
38 state;

1 (c) Causes or may cause economic damage to commercial or
2 recreational activities that are dependent upon state waters; or

3 (d) Threatens or harms human health.

4 (50) "Prohibited aquatic animal species" means an invasive species
5 of the animal kingdom that has been classified as a prohibited aquatic
6 animal species by the commission.

7 (51) "Regulated aquatic animal species" means a potentially
8 invasive species of the animal kingdom that has been classified as a
9 regulated aquatic animal species by the commission.

10 (52) "Unregulated aquatic animal species" means a nonnative animal
11 species that has been classified as an unregulated aquatic animal
12 species by the commission.

13 (53) "Unlisted aquatic animal species" means a nonnative animal
14 species that has not been classified as a prohibited aquatic animal
15 species, a regulated aquatic animal species, or an unregulated aquatic
16 animal species by the commission.

17 (54) "Aquatic plant species" means an emergent, submersed,
18 partially submersed, free-floating, or floating-leaving plant species
19 that grows in or near a body of water or wetland.

20 (55) "Freshwater-specific rule" means a rule adopted by the
21 commission that affects recreational fishing on all of, or a portion
22 of, a specific river, stream, lake, or other freshwater body, and that
23 could potentially be enforced with a criminal penalty.

24 **Sec. 2.** RCW 77.04.090 and 1996 c 267 s 35 are each amended to read
25 as follows:

26 (1) The commission shall adopt permanent rules and amendments to or
27 repeals of existing rules by approval of a majority of the members by
28 resolution, entered and recorded in the minutes of the commission(~~(+—~~
29 ~~PROVIDED, That~~)). However, the commission may not adopt rules after
30 July 23, 1995, that are based solely on a section of law stating a
31 statute's intent or purpose, on the enabling provisions of the statute
32 establishing the agency, or on any combination of such provisions, for
33 statutory authority to adopt any rule.

34 (2) The commission shall adopt emergency rules by approval of a
35 majority of the members. The commission, when adopting emergency rules
36 under RCW 77.12.150, shall adopt rules in conformance with chapter

1 34.05 RCW. Judicial notice shall be taken of the rules filed and
2 published as provided in RCW 34.05.380 and 34.05.210.

3 (3) A copy of an emergency rule, certified as a true copy by a
4 member of the commission, the director, or by a person authorized in
5 writing by the director to make the certification, is admissible in
6 court as prima facie evidence of the adoption and validity of the rule.

7 (4)(a) A new freshwater-specific rule, as that term is defined in
8 RCW 77.08.010, adopted by the commission after June 30, 2003, expires
9 no later than four years after the date it takes effect, unless a
10 majority of the members of the commission approve a reauthorization of
11 the rules for the affected specific body of water. Rules reauthorized
12 by the commission remain in effect for four years, or until they are
13 amended, repealed, or again reauthorized by the commission, whichever
14 comes first.

15 (b) An existing freshwater-specific rule, as that term is defined
16 in RCW 77.08.010, that was adopted on or before June 30, 2003, expires
17 no later than as provided in this subsection (4)(b), unless they are
18 reauthorized by the commission prior to the expiration date set for the
19 affected water body:

20 (i) March 31, 2005, for any freshwater-specific rules relating to
21 water bodies located primarily or entirely east of the crest of the
22 Cascade range; and

23 (ii) March 31, 2007, for any freshwater-specific rules relating to
24 water bodies located primarily or entirely west of the crest of the
25 Cascade range.

26 (c) Prior to reauthorizing any freshwater-specific rules, the
27 commission must hold at least one public hearing where citizens can
28 present testimony regarding the freshwater-specific rules affecting the
29 water body in question.

30 (d) Beginning in calendar year 2008, and continuing each year
31 thereafter, the commission must review, and hold a public hearing on,
32 the freshwater-specific rules for at least twenty-five percent of the
33 state's freshwater bodies governed by such rules. No freshwater body
34 with corresponding freshwater-specific rules may go more than four
35 years between commission reviews.

36 **Sec. 3.** RCW 77.12.047 and 2001 c 253 s 14 are each amended to read
37 as follows:

1 (1) Except as provided in RCW 77.04.090, the commission may adopt,
2 amend, or repeal rules as follows:

3 (a) Specifying the times when the taking of wildlife, fish, or
4 shellfish is lawful or unlawful.

5 (b) Specifying the areas and waters in which the taking and
6 possession of wildlife, fish, or shellfish is lawful or unlawful.

7 (c) Specifying and defining the gear, appliances, or other
8 equipment and methods that may be used to take wildlife, fish, or
9 shellfish, and specifying the times, places, and manner in which the
10 equipment may be used or possessed.

11 (d) Regulating the importation, transportation, possession,
12 disposal, landing, and sale of wildlife, fish, shellfish, or seaweed
13 within the state, whether acquired within or without the state.

14 (e) Regulating the prevention and suppression of diseases and pests
15 affecting wildlife, fish, or shellfish.

16 (f) Regulating the size, sex, species, and quantities of wildlife,
17 fish, or shellfish that may be taken, possessed, sold, or disposed of.

18 (g) Specifying the statistical and biological reports required from
19 fishers, dealers, boathouses, or processors of wildlife, fish, or
20 shellfish.

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

23 (i) Classifying the species of wildlife, fish, and shellfish that
24 may be used for purposes other than human consumption.

25 (j) Regulating the taking, sale, possession, and distribution of
26 wildlife, fish, shellfish, or deleterious exotic wildlife.

27 (k) Establishing game reserves and closed areas where hunting for
28 wild animals or wild birds may be prohibited.

29 (l) Regulating the harvesting of fish, shellfish, and wildlife in
30 the federal exclusive economic zone by vessels or individuals
31 registered or licensed under the laws of this state.

32 (m) Authorizing issuance of permits to release, plant, or place
33 fish or shellfish in state waters.

34 (n) Governing the possession of fish, shellfish, or wildlife so
35 that the size, species, or sex can be determined visually in the field
36 or while being transported.

37 (o) Other rules necessary to carry out this title and the purposes
38 and duties of the department.

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

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

9 (3) Except for subsection (1)(g) of this section, this section does
10 not apply to private sector cultured aquatic products as defined in RCW
11 15.85.020. Subsection (1)(g) of this section does apply to such
12 products.

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