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HOUSE BILL 1025

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State of Washington

58th Legislature

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By Representatives Nixon, Wood and Mielke

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Committee on Fisheries, Ecology & Parks.

1 AN ACT Relating to hunting and fishing; amending RCW 77.32.070,  
2 77.15.070, 77.15.140, 77.15.170, 77.15.230, 77.15.280, 77.15.380,  
3 77.15.390, 77.15.400, 77.15.430, and 77.15.440; adding a new section to  
4 chapter 77.32 RCW; creating a new section; and prescribing penalties.

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

6 NEW SECTION. **Sec. 1.** The legislature recognizes that the  
7 department of fish and wildlife is charged with the responsibility of  
8 managing the state's fish and wildlife populations. Managing dynamic  
9 populations is a complicated task, and the department must complete the  
10 task while allowing a maximum number of individuals to enjoy hunting,  
11 fishing, and other outdoor sports. In order to accomplish this goal,  
12 the legislature recognizes that often elaborate and at times complex  
13 laws may be necessary.

14 However, the legislature finds that these laws, although necessary,  
15 can be confusing to the average sportsperson. Too often a hunter or  
16 fisher may wish to comply with the state's hunting and fishing laws,  
17 only to find that he or she did not properly interpret their meaning.  
18 As historically drafted, the fish and wildlife code provides for a  
19 series of criminal infractions. The result of this construction is

1 that a well-meaning sportsperson may face criminal charges if he or she  
2 unintentionally misunderstands or misinterprets a hunting or fishing  
3 law.

4 The legislature further finds that the historical construction of  
5 the fish and wildlife code does not result in a proper level of  
6 enforcement discretion. Although the native fish and game of our state  
7 deserve the protection provided by the fish and wildlife code and its  
8 associated rules, the sportspeople of Washington deserve the benefit of  
9 the state's doubt that many first-time offenses are unintentional and  
10 are the unfortunate result of the complexity of modern wildlife  
11 management.

12 NEW SECTION. **Sec. 2.** A new section is added to chapter 77.32 RCW  
13 to read as follows:

14 (1) Whenever an individual purchases a recreational hunting or  
15 fishing license, he or she must also be provided with a copy of all  
16 relevant laws and rules, in the form of a bound publication or  
17 rulebook.

18 (2) The department is responsible for preparing the rulebook  
19 required by this section, and for providing all locations where  
20 recreational licenses can be purchased with adequate copies of the  
21 rulebook.

22 (3) The front cover of the rulebook required by this section must  
23 contain, in large print, a warning that explains:

24 (a) The duty of all sportspeople to abide by the laws and rules  
25 contained within the rulebook;

26 (b) The possible financial and criminal penalties for failure to  
27 abide by the laws and rules; and

28 (c) That different laws and rules may apply in particular water  
29 bodies, parts of water bodies, areas of the state, and times of the  
30 year, all of which should be understood prior to fishing or hunting.

31 (4) All locations where recreational licenses are sold must clearly  
32 display a sign, provided by the department, indicating that rulebooks  
33 are available at no additional cost.

34 **Sec. 3.** RCW 77.32.070 and 1998 c 191 s 11 are each amended to read  
35 as follows:

1       (1) All applications for a recreational license, tag, or stamp must  
2 contain a notice to the applicant that:

3       (a) He or she is entitled to a copy of the rulebook produced under  
4 section 2 of this act at no additional cost; and

5       (b) He or she is responsible for abiding by the rules contained in  
6 the rulebook, and failure to do so could result in serious financial or  
7 criminal penalties.

8       (2) Applicants for a license, permit, tag, or stamp shall furnish  
9 the information required by the director. The commission may adopt  
10 rules requiring licensees or permittees to keep records and make  
11 reports concerning the taking of fish, shellfish, and wildlife.

12       **Sec. 4.** RCW 77.15.070 and 2000 c 107 s 231 are each amended to  
13 read as follows:

14       (1) Fish and wildlife officers and ex officio fish and wildlife  
15 officers may seize without warrant boats, airplanes, vehicles,  
16 motorized implements, conveyances, gear, appliances, or other articles  
17 they have probable cause to believe have been held with intent to  
18 violate or used in violation of this title or rule of the commission or  
19 director. However, fish and wildlife officers or ex officio fish and  
20 wildlife officers may not seize any item or article, other than for  
21 evidence, if under the circumstances, it is reasonable to conclude that  
22 the violation was inadvertent or if the person will only be charged  
23 with a natural resources infraction and not a criminal penalty. The  
24 property seized is subject to forfeiture to the state under this  
25 section regardless of ownership. Property seized may be recovered by  
26 its owner by depositing into court a cash bond equal to the value of  
27 the seized property but not more than twenty-five thousand dollars.  
28 Such cash bond is subject to forfeiture in lieu of the property.  
29 Forfeiture of property seized under this section is a civil forfeiture  
30 against property and is intended to be a remedial civil sanction.

31       (2) In the event of a seizure of property under this section,  
32 jurisdiction to begin the forfeiture proceedings shall commence upon  
33 seizure. Within fifteen days following the seizure, the seizing  
34 authority shall serve a written notice of intent to forfeit property on  
35 the owner of the property seized and on any person having any known  
36 right or interest in the property seized. Notice may be served by any

1 method authorized by law or court rule, including service by certified  
2 mail with return receipt requested. Service by mail is deemed complete  
3 upon mailing within the fifteen-day period following the seizure.

4 (3) Persons claiming a right of ownership or right to possession of  
5 property are entitled to a hearing to contest forfeiture. Such a claim  
6 shall specify the claim of ownership or possession and shall be made in  
7 writing and served on the director within forty-five days of the  
8 seizure. If the seizing authority has complied with notice  
9 requirements and there is no claim made within forty-five days, then  
10 the property shall be forfeited to the state.

11 (4) If any person timely serves the director with a claim to  
12 property, the person shall be afforded an opportunity to be heard as to  
13 the person's claim or right. The hearing shall be before the director  
14 or director's designee, or before an administrative law judge appointed  
15 under chapter 34.12 RCW, except that a person asserting a claim or  
16 right may remove the matter to a court of competent jurisdiction if the  
17 aggregate value of the property seized is more than five thousand  
18 dollars.

19 (5) The hearing to contest forfeiture and any subsequent appeal  
20 shall be as provided for in chapter 34.05 RCW, the administrative  
21 procedure act. The seizing authority has the burden to demonstrate  
22 that it had reason to believe the property was held with intent to  
23 violate or was used in violation of this title or rule of the  
24 commission or director. The person contesting forfeiture has the  
25 burden of production and proof by a preponderance of evidence that the  
26 person owns or has a right to possess the property and:

27 (a) That the property was not held with intent to violate or used  
28 in violation of this title; or

29 (b) If the property is a boat, airplane, or vehicle, that the  
30 illegal use or planned illegal use of the boat, airplane, or vehicle  
31 occurred without the owner's knowledge or consent, and that the owner  
32 acted reasonably to prevent illegal uses of such boat, airplane, or  
33 vehicle.

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

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

7 **Sec. 5.** RCW 77.15.140 and 1998 c 190 s 15 are each amended to read  
8 as follows:

9 (1) A person is guilty of unlawful taking of unclassified fish or  
10 wildlife if:

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

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

16 (2)(a) A first-time unlawful taking of unclassified fish or  
17 wildlife is a natural resource infraction under chapter 7.84 RCW.

18 (b) A subsequent unlawful taking of unclassified fish or wildlife  
19 is a misdemeanor.

20 **Sec. 6.** RCW 77.15.170 and 1999 c 258 s 5 are each amended to read  
21 as follows:

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

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

27 (b) The person recklessly allows such fish, shellfish, or wildlife  
28 to be 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 fish, shellfish, or  
32 wildlife having a value of two hundred fifty dollars or more or  
33 wildlife classified as big game; and

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

1           (3)(a)(i) A first-time waste of fish and wildlife in the second  
2 degree is a (~~misdemeanor~~) natural resource infraction under chapter  
3 7.84 RCW.

4           (ii) A subsequent waste of fish and wildlife in the second degree  
5 is a misdemeanor.

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

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

17           **Sec. 7.** RCW 77.15.230 and 1999 c 258 s 6 are each amended to read  
18 as follows:

19           (1) A person is guilty of unlawful use of department lands or  
20 facilities if the person enters upon, uses, or remains upon department-  
21 owned or department-controlled lands or facilities in violation of any  
22 rule of the department.

23           (2)(a) A first-time unlawful use of department lands or facilities  
24 is a natural resource infraction under chapter 7.84 RCW.

25           (b) A subsequent unlawful use of department lands or facilities is  
26 a misdemeanor.

27           **Sec. 8.** RCW 77.15.280 and 1998 c 190 s 47 are each amended to read  
28 as follows:

29           (1) A person is guilty of violating rules requiring reporting of  
30 fish or wildlife harvest if the person:

31           (a) Fails to make a harvest log report of a commercial fish or  
32 shellfish catch in violation of any rule of the commission or the  
33 director;

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

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

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

5 ~~(2) ((Violating rules requiring reporting of fish or wildlife  
6 harvest))~~ (a) A violation of subsection (1)(a) or (b) of this section  
7 is a misdemeanor.

8 (b) A first-time violation of subsection (1)(c) or (d) of this  
9 section is a natural resource infraction under chapter 7.84 RCW.

10 (c) A subsequent violation of subsection (1)(c) or (d) of this  
11 section is a misdemeanor.

12 **Sec. 9.** RCW 77.15.380 and 2001 c 253 s 39 are each amended to read  
13 as follows:

14 (1) A person is guilty of unlawful recreational fishing in the  
15 second degree if the person fishes for, takes, possesses, or harvests  
16 fish or shellfish and:

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

19 (b) The action violates any rule of the commission or the director  
20 regarding seasons, bag or possession limits but less than two times the  
21 bag or possession limit, closed areas, closed times, or any other rule  
22 addressing the manner or method of fishing or possession of fish,  
23 except for use of a net to take fish as provided for in RCW 77.15.580.

24 (2)(a) A first-time unlawful recreational fishing in the second  
25 degree is a natural resource infraction under chapter 7.84 RCW.

26 (b) A subsequent unlawful recreational fishing in the second degree  
27 is a misdemeanor.

28 **Sec. 10.** RCW 77.15.390 and 2001 c 253 s 40 are each amended to  
29 read as follows:

30 (1) A person is guilty of unlawful taking of seaweed if the person  
31 takes, possesses, or harvests seaweed and:

32 (a) The person does not have and possess the license required by  
33 chapter 77.32 RCW for taking seaweed; or

34 (b) The action violates any rule of the department or the  
35 department of natural resources regarding seasons, possession limits,

1 closed areas, closed times, or any other rule addressing the manner or  
2 method of taking, possessing, or harvesting of seaweed.

3 (2)(a) A first-time unlawful taking of seaweed is a natural  
4 resource infraction under chapter 7.84 RCW.

5 (b) A subsequent unlawful taking of seaweed is a misdemeanor.

6 (3) Nothing in this ((does not)) section affects the rights of the  
7 state to recover civilly for trespass, conversion, or theft of state-  
8 owned valuable materials.

9 **Sec. 11.** RCW 77.15.400 and 2001 c 253 s 41 are each amended to  
10 read as follows:

11 (1) A person is guilty of unlawful hunting of wild birds in the  
12 second degree if the person:

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

16 (b) Maliciously destroys, takes, or harms the eggs or nests of a  
17 wild bird except when authorized by permit;

18 (c) Violates any rule of the commission or director regarding  
19 seasons, bag or possession limits but less than two times the bag or  
20 possession limit, closed areas, closed times, or other rule addressing  
21 the manner or method of hunting or possession of wild birds; or

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

24 (2) A person is guilty of unlawful hunting of wild birds in the  
25 first degree if the person takes or possesses two times or more than  
26 the possession or bag limit for wild birds allowed by rule of the  
27 commission or director.

28 (3)(a)(i) A first-time unlawful hunting of wild birds in the second  
29 degree is a ((misdemeanor)) natural resource infraction under chapter  
30 7.84 RCW.

31 (ii) A subsequent unlawful hunting of wild birds in the second  
32 degree is a misdemeanor.

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

35 **Sec. 12.** RCW 77.15.430 and 1999 c 258 s 4 are each amended to read  
36 as follows:



1 (1) A person is guilty of unlawful hunting of wild animals in the  
2 second degree if the person:

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

6 (b) 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 times,  
9 or other rule addressing the manner or method of hunting or possession  
10 of wild animals not classified as big game; or

11 (c) Possesses a wild animal that is not classified as big game  
12 taken during a closed season for that wild animal or from a closed area  
13 for that wild animal.

14 (2) A person is guilty of unlawful hunting of wild animals in the  
15 first degree if the person takes or possesses two times or more than  
16 the possession or bag limit for wild animals that are not classified as  
17 big game animals as allowed by rule of the commission or director.

18 (3)(a)(i) A first-time unlawful hunting of wild animals in the  
19 second degree is a ((misdemeanor)) natural resource infraction under  
20 chapter 7.84 RCW.

21 (ii) A subsequent unlawful hunting of wild animals in the second  
22 degree is a misdemeanor.

23 (b) Unlawful hunting of wild animals in the first degree is a gross  
24 misdemeanor.

25 **Sec. 13.** RCW 77.15.440 and 1998 c 190 s 12 are each amended to  
26 read as follows:

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

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

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

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

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

1       (4)(a) A first-time unlawful use of weapons, traps, or dogs on game  
2 reserves is a natural resource infraction under chapter 7.84 RCW.

3       **(b)** A subsequent unlawful use of weapons, traps, or dogs on game  
4 reserves is a misdemeanor.

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