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**SUBSTITUTE SENATE BILL 5179**

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**State of Washington**

**58th Legislature**

**2003 Regular Session**

**By** Senate Committee on Parks, Fish & Wildlife (originally sponsored by Senators Oke, Mulliken, Rasmussen and T. Sheldon)

READ FIRST TIME 02/11/03.

1       AN ACT Relating to body-gripping traps; amending RCW 77.08.010,  
2       77.15.194, 77.65.450, 77.65.460, 77.32.545, and 77.15.198; adding new  
3       sections to chapter 77.12 RCW; repealing RCW 77.15.192; and declaring  
4       an emergency.

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

6       NEW SECTION.   **Sec. 1.** A new section is added to chapter 77.12 RCW  
7       to read as follows:

8       (1) The legislature finds that a professionally managed and  
9       regulated trapping program is not only vital to the health of  
10       Washington's wildlife populations, but is also consistent with the  
11       state's obligations to manage all natural resources in trust for the  
12       common good of all citizens.

13       (2) The legislature further finds that it is in the interest of all  
14       of the citizens of Washington to ensure that all trapping is done in  
15       accordance with sound scientific wildlife management principles using  
16       humane methods as set forth in this act. It is the legislature's  
17       intent to reinstate a sound furbearer management program, administered  
18       using sound science by the department of fish and wildlife, that  
19       addresses mammal population dynamics and animal damage issues.

1 (3) The legislature further finds that humanely regulated trapping  
2 practices contribute positively to the economic well-being of the state  
3 of Washington, to public health and welfare by assisting to control the  
4 spread of animal-borne disease, and to the protection of private and  
5 public property from damage resulting from uncontrolled animal  
6 populations.

7 (4) The legislature further finds that trapping can be a valuable  
8 commercial activity, when consistent with a sound furbearer management  
9 program, and benefit the economy of the state of Washington.

10 (5) The legislature recognizes that among the choices available for  
11 the trapping of animals, some may cause pain and suffering in the  
12 animals captured. The legislature further recognizes that some  
13 trapping methods can capture animals that are not targeted, including  
14 pets. It is the policy of the state of Washington to minimize the use  
15 of indiscriminate or painful traps and to use all traps humanely. When  
16 lethal trapping methods are used, such methods must be used in the most  
17 humane way that accomplishes the goals of the wildlife management  
18 program. All trappers in the state should use all practicable means  
19 necessary to avoid the capture of a nontargeted animal.

20 **Sec. 2.** RCW 77.08.010 and 2002 c 281 s 2 are each amended to read  
21 as follows:

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

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

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

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

27 (4) "Person" means and includes an individual; a corporation; a  
28 public or private entity or organization; a local, state, or federal  
29 agency; all business organizations, including corporations and  
30 partnerships; or a group of two or more individuals acting with a  
31 common purpose whether acting in an individual, representative, or  
32 official capacity.

33 (5) "Fish and wildlife officer" means a person appointed and  
34 commissioned by the director, with authority to enforce this title and  
35 rules adopted pursuant to this title, and other statutes as prescribed  
36 by the legislature. Fish and wildlife officer includes a person

1 commissioned before June 11, 1998, as a wildlife agent or a fisheries  
2 patrol officer.

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

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

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

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

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

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

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

36 (13) "Closed waters" means all or part of a lake, river, stream, or  
37 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) "Prohibited body-gripping trap" means a steel trap that grips  
21 an animal's body or body part with teeth or serrated edges.

22 (56) "Raw fur" means a pelt that has not been processed for  
23 purposes of retail sale.

24 (57) "Animal problem" means any classified furbearing mammal or  
25 unclassified mammal that threatens or damages timber, publicly owned or  
26 private property, or that threatens or injures livestock, human health  
27 or safety, or any other domestic animal or wildlife population.

28 (58) "Nuisance wildlife" means wildlife so designated by the  
29 department by rule.

30 **Sec. 3.** RCW 77.15.194 and 2001 c 1 s 3 are each amended to read as  
31 follows:

32 It is the duty of every trapper to ensure that all trapping is done  
33 humanely. To ensure that this goal is met, all trappers must abide by  
34 the following:

35 (1) It is unlawful to use or authorize the use of any steel-jawed  
36 (~~leghold~~) foothold trap, neck snare, foot snare, or other prohibited  
37 body-gripping trap to capture any mammal for (~~recreation or commerce~~

1 in fur)) a purpose other than to address an animal problem, for the  
2 live capture of raptors for falconry, scientific research, or to manage  
3 a bird problem as authorized by rule of the commission, for scientific  
4 research, or for mammal population management.

5 (2) It is unlawful to knowingly buy, sell, barter, or otherwise  
6 exchange, or offer to buy, sell, barter, or otherwise exchange the raw  
7 fur of a mammal or a mammal that has been trapped in (~~(this state with~~  
8 ~~a steel-jawed leghold trap or any other body-gripping trap, whether or~~  
9 ~~not pursuant to permit.~~

10 ~~(3) It is unlawful to use or authorize the use of any steel-jawed~~  
11 ~~leghold trap or any other body-gripping trap to capture any animal,~~  
12 ~~except as provided in subsections (4) and (5) of this section.~~

13 ~~(4) Nothing in this section prohibits the use of a Conibear trap in~~  
14 ~~water, a padded leghold trap, or a nonstrangling type foot snare with~~  
15 ~~a special permit granted by [the] director under (a) through (d) of~~  
16 ~~this subsection. Issuance of the special permits shall be governed by~~  
17 ~~rules adopted by the department and in accordance with the requirements~~  
18 ~~of this section. Every person granted a special permit to use a trap~~  
19 ~~or device listed in this subsection shall check the trap or device at~~  
20 ~~least every twenty-four hours.~~

21 ~~(a) Nothing in this section prohibits the director, in consultation~~  
22 ~~with the department of social and health services or the United States~~  
23 ~~department of health and human services from granting a permit to use~~  
24 ~~traps listed in this subsection for the purpose of protecting people~~  
25 ~~from threats to their health and safety.~~

26 ~~(b) Nothing in this section prohibits the director from granting a~~  
27 ~~special permit to use traps listed in this subsection to a person who~~  
28 ~~applies for such a permit in writing, and who establishes that there~~  
29 ~~exists on a property an animal problem that has not been and cannot be~~  
30 ~~reasonably abated by the use of nonlethal control tools, including but~~  
31 ~~not limited to guard animals, electric fencing, or box and cage traps,~~  
32 ~~or if such nonlethal means cannot be reasonably applied. Upon making~~  
33 ~~a finding in writing that the animal problem has not been and cannot be~~  
34 ~~reasonably abated by nonlethal control tools or if the tools cannot be~~  
35 ~~reasonably applied, the director may authorize the use, setting,~~  
36 ~~placing, or maintenance of the traps for a period not to exceed thirty~~  
37 ~~days.~~

1       ~~(c) Nothing in this section prohibits the director from granting a~~  
2 ~~special permit to department employees or agents to use traps listed in~~  
3 ~~this subsection where the use of the traps is the only practical means~~  
4 ~~of protecting threatened or endangered species as designated under RCW~~  
5 ~~77.08.010.~~

6       ~~(d) Nothing in this section prohibits the director from issuing a~~  
7 ~~permit to use traps listed in this subsection, excluding Conibear~~  
8 ~~traps, for the conduct of legitimate wildlife research.~~

9       ~~(5) Nothing in this section prohibits the United States fish and~~  
10 ~~wildlife service, its employees or agents, from using a trap listed in~~  
11 ~~subsection (4) of this section where the fish and wildlife service~~  
12 ~~determines, in consultation with the director, that the use of such~~  
13 ~~traps is necessary to protect species listed as threatened or~~  
14 ~~endangered under the federal endangered species act (16 U.S.C. Sec.~~  
15 ~~1531 et seq.)) violation of subsection (1) of this section. Nothing~~  
16 ~~in this section prohibits the donation of an animal carcass or pelt for~~  
17 ~~scientific research and public health training.~~

18       (3)(a) All trapping of wild animals may only be conducted by  
19 trappers licensed by the department under RCW 77.65.450 for the  
20 management of animal problems, for scientific research, or for mammal  
21 population management and in accordance with the rules developed by the  
22 commission as they relate to wildlife trapping. However, nothing in  
23 this section prohibits the use of commonly used traps by property  
24 owners or their agents to control nuisance wildlife including, but not  
25 limited to, moles, mice, rats, mountain beavers, and gophers.

26       (b) Furbearing mammals may not be taken from the wild and held  
27 alive for sale or personal use. All trapping must be conducted in  
28 furtherance of a wildlife trapping program being implemented by the  
29 department for an animal problem, for scientific research, or for  
30 mammal population management.

31       (c) Wildlife trapped for a purpose other than to manage animal  
32 problems, for scientific research, or mammal population management  
33 must, if possible, be released unharmed immediately upon discovery.  
34 The commission may adopt by rule or guideline procedures for the  
35 handling of any animal that is unable to be released unharmed.

36       (d) Lawfully trapped wild animals, if not intended for release,  
37 must be humanely dispatched, or if intended for release, must be either

1 immediately released or immediately taken to a rehabilitation center,  
2 if necessary. The commission may adopt by rule or guideline procedures  
3 for the humane dispatch of captured animals.

4 (4)(a) It is unlawful for a licensed trapper to fail to complete  
5 and submit to the department a report of catch postmarked on or before  
6 April 20th of each year. The report must be submitted to the  
7 department regardless of trapping success, and indicate the number,  
8 general location, and species of all animals captured, including those  
9 animals captured that were not part of an animal problem or mammal  
10 population control. Trappers who fail to submit an accurate report of  
11 catch shall have their trapping privileges suspended for one year.  
12 False reports are considered failure to report. It is the  
13 responsibility of each licensed trapper to obtain and submit a report  
14 of catch on forms provided by the department.

15 (b) The department shall maintain and analyze all catch reports  
16 received pursuant to (a) of this subsection. Data collected on catch  
17 reports must be presented to the appropriate legislative committees by  
18 November 30th of each year.

19 (5) Employees or agents of the United States department of  
20 agriculture wildlife services program and of the United States fish and  
21 wildlife service, acting lawfully within the scope of their authority,  
22 are not subject to the provisions of this section.

23 NEW SECTION. Sec. 4. A new section is added to chapter 77.12 RCW  
24 to read as follows:

25 The commission shall adopt appropriate rules regarding the types of  
26 traps and bait for use in capturing wildlife to ensure the humane  
27 treatment of captured animals. In adopting these rules, the commission  
28 may take into consideration the effectiveness of various trap sizes,  
29 approved best management practices, and the habitats in which the traps  
30 may be used. These rules must address the time intervals during which  
31 specific traps must be checked and animals removed. These rules may  
32 not allow for the use of a prohibited body-gripping trap, as that term  
33 is defined in RCW 77.08.010, or a neck or body snare attached to a  
34 spring pole or any spring pole type device. The commission must also  
35 adopt rules for the appropriate disposal of carcasses.

1        NEW SECTION.    **Sec. 5.**    A new section is added to chapter 77.12 RCW  
2 to read as follows:

3        The department shall institute a furbearer management program that  
4 addresses mammal population dynamics and problem animals, and shall  
5 only issue trapping licenses and propose rules consistent with the  
6 program.

7        **Sec. 6.**    RCW 77.65.450 and 1991 sp.s. c 7 s 3 are each amended to  
8 read as follows:

9        A state trapping license allows the holder to trap fur-bearing  
10 animals throughout the state in accordance with the rules adopted by  
11 the commission under section 4 of this act; however, a trapper may not  
12 place traps on private property without permission of the owner,  
13 lessee, or tenant where the land is improved and apparently used, or  
14 where the land is fenced or enclosed in a manner designed to exclude  
15 intruders or to indicate a property boundary line, or where notice is  
16 given by posting in a conspicuous manner. A state trapping license is  
17 void on April 1st following the date of issuance. The fee for this  
18 license is thirty-six dollars for residents sixteen years of age or  
19 older, fifteen dollars for residents under sixteen years of age, and  
20 one hundred eighty dollars for nonresidents. The department may only  
21 issue trapping licenses for the control of animal problems, as that  
22 term is defined in RCW 77.08.010, for scientific research, and for  
23 mammal population management. The live capture of raptors for  
24 falconry, scientific research, or to manage a bird problem by use of a  
25 foot snare or other body-gripping trap may also be authorized by rule  
26 of the commission.

27        **Sec. 7.**    RCW 77.65.460 and 1987 c 506 s 82 are each amended to read  
28 as follows:

29        Persons purchasing a state trapping license for the first time  
30 shall present certification of completion of a course of instruction in  
31 safe, humane, and proper trapping techniques or pass an examination to  
32 establish that the applicant has the requisite knowledge.

33        The director shall establish a program for training persons in  
34 trapping techniques and responsibilities in urban, suburban, and rural  
35 settings, including the use of trapping devices designed to painlessly  
36 capture or instantly kill. The director shall cooperate with

1 ((national and)) Washington state animal, humane, hunter education, and  
2 trapping organizations in the development of a curriculum. Upon  
3 successful completion of the course, trainees shall receive a trapper's  
4 training certificate signed by an authorized instructor. This  
5 certificate is evidence of compliance with this section.

6 **Sec. 8.** RCW 77.32.545 and 1998 c 190 s 121 are each amended to  
7 read as follows:

8 A property owner, lessee, or tenant may remove a trap placed on the  
9 owner's, lessee's, or tenant's posted or fenced property by a trapper.  
10 A property owner, lessee, or tenant who discovers a trap placed on any  
11 portion of his or her property that is not authorized by the owner,  
12 lessee, or tenant, may report the finding to the department, including  
13 whether a live animal is captured in the trap. The commission may  
14 adopt by rule or guideline procedures for the handling of live animals  
15 discovered in such traps.

16 Trappers shall attach to the chain of their traps or devices a  
17 legible metal tag with either the department identification number of  
18 the trapper or the name and address of the trapper in English letters  
19 not less than one-eighth inch in height.

20 When a property owner, lessee, or tenant presents a trapper  
21 identification number to the department for a trap found upon the  
22 property of the owner, lessee, or tenant and requests identification of  
23 the trapper, the department shall provide the requestor with the name  
24 and address of the trapper. Prior to disclosure of the trapper's name  
25 and address, the department shall obtain the name and address of the  
26 requesting individual in writing and after disclosing the trapper's  
27 name and address to the requesting individual, the requesting  
28 individual's name and address shall be disclosed in writing to the  
29 trapper whose name and address was disclosed.

30 **Sec. 9.** RCW 77.15.198 and 2001 c 1 s 5 are each amended to read as  
31 follows:

32 Any person who violates RCW 77.15.194 or 77.15.196 is guilty of a  
33 gross misdemeanor. In addition to appropriate criminal penalties, the  
34 director shall revoke the trapping license of any person convicted of  
35 a repeat violation of RCW 77.15.194 or 77.15.196. The director shall  
36 not issue the violator a trapping license for a period of five years

1 following the revocation. (~~Following a subsequent conviction for a~~  
2 ~~violation of RCW 77.15.194 or 77.15.196 by the same person, the~~  
3 ~~director shall not issue a trapping license to the person at any time~~)  
4 A person may not be granted a new trapping license following a  
5 revocation under this section unless that person completes the  
6 education program outlined in RCW 77.65.460 not more than one year  
7 before a new license is granted.

8 NEW SECTION. Sec. 10. RCW 77.15.192 (Definitions) and 2001 c 1 s  
9 2 are each repealed.

10 NEW SECTION. Sec. 11. This act is necessary for the immediate  
11 preservation of the public peace, health, or safety, or support of the  
12 state government and its existing public institutions, and takes effect  
13 immediately.

--- END ---