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SENATE BILL 5348

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State of Washington

58th Legislature

2003 Regular Session

By Senators Haugen, Swecker, Doumit, Morton, Rasmussen, Hargrove, Horn, Spanel and Esser

Read first time 01/22/2003. Referred to Committee on Parks, Fish & Wildlife.

1 AN ACT Relating to fish barriers at fish hatcheries; and amending  
2 RCW 77.55.060.

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

4 **Sec. 1.** RCW 77.55.060 and 1998 c 190 s 86 are each amended to read  
5 as follows:

6 A dam or other obstruction across or in a stream, including fish  
7 barrier dams constructed at department facilities, shall be provided  
8 with a durable and efficient fishway approved by the director. Plans  
9 and specifications shall be provided to the department prior to the  
10 director's approval. The fishway shall be maintained in an effective  
11 condition and continuously supplied with sufficient water to freely  
12 pass fish.

13 If a person fails to construct and maintain a fishway or to remove  
14 the dam or obstruction in a manner satisfactory to the director, then  
15 within thirty days after written notice to comply has been served upon  
16 the owner, his or her agent, or the person in charge, the director may  
17 construct a fishway or remove the dam or obstruction. Expenses  
18 incurred by the department constitute the value of a lien upon the dam  
19 and upon the personal property of the person owning the dam. Notice of

1 the lien shall be filed and recorded in the office of the county  
2 auditor of the county in which the dam or obstruction is situated. The  
3 lien may be foreclosed in an action brought in the name of the state.

4 If, within thirty days after notice to construct a fishway or  
5 remove a dam or obstruction, the owner, his or her agent, or the person  
6 in charge fails to do so, the dam or obstruction is a public nuisance  
7 and the director may take possession of the dam or obstruction and  
8 destroy it. No liability shall attach for the destruction.

9 By September 15, 2003, the department shall provide for an  
10 operating fishway at the fish barrier dam located at the fish hatchery  
11 on the Samish river. The fishway may be closed only during the period  
12 of time that broodstock are being captured to fulfill the needs of the  
13 hatchery. The department shall maintain a public record of the period  
14 of time that the fishway is closed to upstream migrating anadromous  
15 fish.

16 The department shall conduct an inventory of all barriers that  
17 exist at fish hatcheries in the state that block access to natural  
18 habitat to the upstream migration of anadromous fish. The inventory  
19 shall include owner and operator of the hatchery, the number of stream  
20 miles of natural habitat on the main stem and tributary streams that  
21 are not accessible to upstream migrating anadromous fish, the months  
22 that the blockage occurs, the species that exist in the river below the  
23 barrier, and whether the species is listed as either a threatened or  
24 endangered species. The inventory shall be submitted to the  
25 legislature by December 1, 2003.

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