

HOUSE BILL REPORT

ESHB 1696

As Passed House:

March 11, 2005

Title: An act relating to enhanced fish and wildlife penalties.

Brief Description: Increasing penalties for the violation of certain fish and wildlife provisions.

Sponsors: By House Committee on Natural Resources, Ecology & Parks (originally sponsored by Representatives Blake, Buck, Takko, Holmquist, McCune, Condotta, Hinkle and B. Sullivan).

Brief History:

Committee Activity:

Natural Resources, Ecology & Parks: 2/15/05, 2/24/05 [DPS];

Appropriations: 3/3/05, 3/5/05 [DPS(NREP)].

Floor Activity:

Passed House: 3/11/05, 90-3.

Brief Summary of Engrossed Substitute Bill

- Expands the crime of unlawful recreational fishing in the first degree to include fishing for or possessing a species of fish that is listed as endangered or threatened.
- Allows flexibility in the types of security posted to reclaim seized property.
- Increases the penalties for the unlawful hunting of big game.
- Creates a new non-appropriated account to fund wildlife enforcement activities.

HOUSE COMMITTEE ON NATURAL RESOURCES, ECOLOGY & PARKS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives B. Sullivan, Chair; Upthegrove, Vice Chair; Buck, Ranking Minority Member; Kretz, Assistant Ranking Minority Member; Blake, DeBolt, Dickerson, Eickmeyer, Hunt, Orcutt and Williams.

Staff: Jason Callahan (786-7117).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The substitute bill by Committee on Natural Resources, Ecology & Parks be substituted therefor and the substitute bill do pass. Signed by 29 members: Representatives Sommers, Chair; Fromhold, Vice Chair; Alexander, Ranking Minority Member; Anderson, Assistant Ranking Minority Member; McDonald, Assistant Ranking Minority Member; Armstrong, Bailey, Buri, Clements, Cody, Conway, Darneille, Dunshee, Grant, Haigh, Hinkle, Hunter, Kagi, Kenney, Kessler, Linville, McDermott, McIntire, Miloscia, Pearson, Priest, Schual-Berke, Talcott and Walsh.

Staff: Alicia Paatsch (786-7178).

Background:

Unlawful recreational fishing

Individuals violating certain fishing laws can be prosecuted for the crime of unlawful recreational fishing. The gross misdemeanor of unlawful recreational fishing in the first degree can be prosecuted when an individual takes twice the allowed bag limit of a species, fishes in a fishway, or uses certain methods for catching a fish. Unlawful recreational fishing in the second degree is a misdemeanor, and can be prosecuted when a person fishes without a license or violates a rule of the Fish and Wildlife Commission (Commission) in regards to recreational fishing.

Unlawful hunting

The crime of unlawful big game hunting can also be prosecuted in the first and second degree. The second degree crime, which is a gross misdemeanor, occurs when a person hunts big game in a closed area or during a closed season, hunts without a license, or hunts in violation of a Commission rule. The first degree crime, which is a felony, occurs if the person has been convicted within the past five years of another fish and wildlife code violation.

In addition to the criminal penalties associated with unlawful big game hunting, those convicted of the first degree variety face a suspension of their big game hunting privileges for two years. Individuals convicted of either the first or second degree variety of unlawful big game hunting also face a wildlife penalty assessment. The fees collected by this assessment are directed to the public safety and education account, and range between \$2,000 and \$12,000 depending on the species of big game killed.

Individuals can also face criminal charges for spotlighting big game. This crime occurs when a person is found hunting with the aid of a spotlight or other artificial lighting device.

Property seizures

Fish and wildlife enforcement officers have the authority to seize without warrant items that are believed to have been used to violate the code. 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.

Seized property may be recovered by the owner if he or she submits to the court a cash bond that is equal to the value of the seized property, or \$25,000, whichever is less. In addition, the property forfeiture can be contested by making a claim in writing to the Director of the Department of Fish and Wildlife (Department) within 45 days of the seizure. If the value of the property in question is greater than \$5,000, the claim can be moved to a court of law.

Summary of Engrossed Substitute Bill:

Unlawful recreational fishing

The crime of unlawful recreational fishing in the first degree is expanded to include the action of fishing for or possessing a fish that is listed as endangered or threatened by the U.S. Department of the Interior.

Unlawful hunting

The Department is required to revoke all hunting privileges for two years for an individual convicted of a second-degree charge of unlawful big game hunting or spotlighting big game. Individuals convicted of a first-degree charge of unlawful big game hunting will have their hunting privileges suspended for 10 years.

The criminal wildlife penalty assessed to a person convicted of the crime unlawful big game hunting is increased as follows for persons convicted of spotlighting, persons with previous convictions of the Fish and Wildlife Code, when the animal was killed with the intent of sale, and when the person is operating with a licensed guide:

- from \$4,000 to \$8,000 for moose, mountain sheep, mountain goat, and most species listed as threatened or endangered by the Commission;
- from \$2,000 to \$8,000 for elk, deer, cougar, and black bear;
- from \$6,000 to \$12,000 for trophy deer and elk; and
- from \$12,000 to \$24,000 for caribou, grizzly bear, and trophy mountain sheep.

Property seizures

Individuals that have had property seized by the Department have the option to recover the property by posting security equivalent to a cash bond. The maximum amount of security that may be required is increased from \$25,000 to \$100,000.

The Department is given the authority to settle a claim of ownership filed to the Department.

Fish and Wildlife Reward Account

The Fish and Wildlife Reward Account (Account) is created as a non-appropriated account in the state treasury. The Account receives the revenues generated from the assessment of criminal wildlife penalties for the unlawful hunting of big game, as well as any money or property donated to the fund, and criminal wildlife penalties. The Director of the Department may only authorize expenditures from the account for wildlife enforcement issues, including

the investigation and prosecution of fish and wildlife offenses and providing rewards to informants.

Assessments of criminal wildlife penalties for the unlawful hunting of big game are no longer directed towards the Public Safety and Education Account.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: (Natural Resources, Ecology & Parks) This bill will make prosecuting wildlife claims a higher priority. Poachers are not being convicted, and their behavior gives all hunters a black eye. The hunting community is frustrated with poachers, and are willing to contribute money so that the Department can offer rewards for witnesses. Currently, penalty assessments are not going towards investigating and enforcing poaching violations, and that is how the money should be used.

Testimony For: (Appropriations) This bill creates a resource for enforcement and we have worked on this for a number of years. The purpose of the Fish and Wildlife Reward Account is to award bonus points towards the purchase of hunting or fishing licenses in exchange for information on the unlawful taking of fish and wildlife. The cost for investigating the unlawful take of geoduck was \$500,000 which came from the program's operating costs. This account will provide funds for this and additional costs. The intent of the award account is not to add fish and wildlife enforcement officers, so I will revise the fiscal note to reflect this. Civil assessments will be deposited into the State Wildlife Account.

Testimony Against: (Natural Resources, Ecology & Parks) None.

Testimony Against: (Appropriations) None.

Persons Testifying: (Natural Resources, Ecology & Parks) Representative Blake, prime sponsor; Ed Owens, Hunters Heritage Council; and Bruce Bjork, Washington Department of Fish and Wildlife.

Persons Testifying: (Appropriations) Bruce Bjork, Department of Fish and Wildlife; and Ed Owens, Hunters Heritage Council.

Persons Signed In To Testify But Not Testifying: (Natural Resources, Ecology & Parks) None.

Persons Signed In To Testify But Not Testifying: (Appropriations) None.