

# SENATE BILL REPORT

## ESHB 1696

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As Reported By Senate Committee On:  
Natural Resources, Ocean & Recreation, March 30, 2005  
Ways & Means, April 4, 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:** House Committee on Natural Resources, Ecology & Parks (originally sponsored by Representatives Blake, Buck, Takko, Holmquist, McCune, Condotta, Hinkle and B. Sullivan).

**Brief History:** Passed House: 3/11/05, 90-3.

**Committee Activity:** Natural Resources, Ocean & Recreation: 3/21/05, 3/30/05 [DPA, w/oRec].

Ways & Means: 4/4/05 [DPA(NROR)].

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### SENATE COMMITTEE ON NATURAL RESOURCES, OCEAN & RECREATION

**Majority Report:** Do pass as amended.

Signed by Senators Jacobsen, Chair; Doumit, Vice Chair; Oke, Ranking Minority Member; Fraser, Spanel, Stevens and Swecker.

**Minority Report:** That it be referred without recommendation.

Signed by Senator Morton.

**Staff:** Curt Gavigan (786-7437)

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### SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** Do pass as amended by Committee on Natural Resources, Ocean & Recreation.

Signed by Senators Prentice, Chair; Doumit, Vice Chair; Fraser, Vice Chair; Zarelli, Ranking Minority Member; Brandland, Kohl-Welles, Parlette, Pflug, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler and Thibaudeau.

**Staff:** Kirstan Arestad (786-7708)

**Background:** 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 in regards to recreational fishing.

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 had been convicted within the past five years of another big game related crime. In addition to the criminal penalties associated with unlawful big game hunting, those convicted of the first degree variety face a suspension of their 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 if the violation results in the death of certain wildlife. 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.

Fish and wildlife enforcement officers have the authority to seize without warrant items they have probable cause to believe have been held with intent to violate, or used in violation, of fish and wildlife statutes or rules. The seizure authority extends to boats, airplanes, vehicles, gear, and appliances, as well as other articles. 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 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 Amended Bill:** 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.

The Department is required to revoke all hunting privileges for two years for an individual convicted of a second degree big game hunting offense involving the killing or possession of big game taken: (1) during a period of time when hunting for the particular species is not permitted; or (2) in excess of the bag or possession limit. 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 is doubled where: (1) a person is convicted of spotlighting big game; (2) a person has a previous fish and wildlife misdemeanor, gross misdemeanor, or felony conviction; (3) a person kills an animal with the intent to profit; or (4) a person kills an animal under the supervision of a licensed guide.

The crime of spotlighting big game is expanded to include hunting big game with the aid of night vision equipment. The term "night vision equipment" includes electronic light amplification devices, thermal imaging devices, and other comparable equipment used to enhance night vision.

Upon conviction of spotlighting big game in the second degree, the Department must revoke all hunting privileges for two years. Upon conviction of spotlighting big game in the first

degree, all hunting privileges must be revoked for ten years. A person convicted of spotlighting big game must be assessed a criminal wildlife penalty assessment.

Individuals that have had property seized by the Department have the option to recover the property by posting a cash bond or equivalent security with the court or the Department. 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 with the Department.

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 from any property seized and forfeited. The Director of the Department may only authorize expenditures from the account for wildlife enforcement issues, including investigating and prosecuting fish and wildlife offenses and rewarding informants.

**Amended Bill Compared to Original Bill:** The crime of spotlighting big game is expanded to include hunting big game with the aid of night vision equipment.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For (Natural Resources, Ocean & Recreation):** Funds from the reward account will help finance the investigation and prosecution of hunting and fishing violations. The reward account will also provide resources with which to offer rewards for information that assists these investigations. These tools will help the Department stop those whose illegal hunting and fishing activities are ruining outdoor recreation for others.

**Testimony Against (Natural Resources, Ocean & Recreation):** None.

**Who Testified (Natural Resources, Ocean & Recreation):** PRO: Representative Blake; Representative Buck; Bill Jarmon, Department of Fish and Wildlife; Ed Owens, Hunters Heritage Council.

**Testimony For (Ways & Means):** The Department of Fish and Wildlife urges support on this bill as it has gone through a number of changes. The set up of the fish and wildlife reward account allows for the collection of civil assessments for the taking of trophy animals. Any fine monies for criminal violations would remain in the public safety and education account.

**Testimony Against (Ways & Means):** None.

**Who Testified (Ways & Means):** Bruce Bjork, Department of Fish and Wildlife.