

SSB 5201 - H COMM AMD

By Committee on Agriculture & Natural Resources

NOT CONSIDERED 04/22/2011

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 77.04 RCW
4 to read as follows:

5 (1) The biological science review process is established. The
6 process must include the participation of three doctoral level
7 scientists with recognized professional or academic expertise in
8 fisheries science, wildlife management, wildlife biology, ecosystem
9 sciences, or another natural resources-based science. One participant
10 in the biological science review process must be appointed by the dean
11 of the college of environment at the University of Washington, one must
12 be appointed by the dean of the college of agricultural, human, and
13 natural resource sciences at Washington State University, and the third
14 must be mutually agreed upon and appointed by the other two appointees.
15 If the structure or formal names of the colleges identified in this
16 subsection are changed by their universities, then the appointment
17 authority under this section is the responsibility of the dean of the
18 applicable new college.

19 (2) The biological science review process's primary function is the
20 scientific review of any draft or final commission or department
21 decisions regarding the management of wildlife and fish species. The
22 director must submit, as requested by the participants in the
23 biological science review process, information relating to department
24 or commission draft or final decisions. These matters may include, but
25 are not limited to:

- 26 (a) The adoption of management and conservation plans;
27 (b) Rule making relating to the harvest or protection of a fish or
28 wildlife species or its habitat;
29 (c) Land management decisions;
30 (d) The setting of harvest levels; and

1 (e) The implementation of hydraulic project approval policies under
2 chapter 77.55 RCW.

3 (3) The biological science review process participants may conduct
4 a basic review of any department or commission draft or final decisions
5 to determine the decision's scope and effect. If the biological
6 science review process participants determine that the commission or
7 department decision is of a significant scope or has a significant
8 effect, then they have the discretion to conduct a scientific review of
9 the decision.

10 (4) If the biological science review process participants decide to
11 conduct a scientific review of a commission or department draft or
12 final decision, then the commission or department decision, along with
13 any supporting data provided by the commission or the department, may
14 be subjected to both blind and open peer review by the appropriate
15 scientific community. Anonymous peer reviewers must be chosen by the
16 biological science review process participants. Upon the completion of
17 the peer review, the biological science review process participants
18 must review the results and make available for publishing, and
19 transmission to the appropriate committees of the legislature, a
20 compilation of the review and any dissenting opinions.

21 (5) The biological science review process participants only has the
22 authority to provide a scientific review of commission or department
23 decisions. The commission and the department are not required to
24 consult with the biological science review process participants before
25 finalizing a decision or taking an action, and the biological science
26 review process participants do not have the authority to mandate that
27 the commission or department change a decision or take any specific
28 actions.

29 (6) The biological science review process participants have the
30 responsibility and authority to organize the process, set meeting times
31 and locations, and establish review procedures. The procedures may
32 establish a procedure that allows third parties to petition for the
33 scientific review of a specific department or commission draft or final
34 decision.

35 (7) In addition to third-party petitions for review under
36 subsection (6) of this section, any individual member of the commission
37 may, at any time, including prior to developing a proposal for the
38 management of any species, request a scientific literature review under

1 this section of any data that may exist or other information the
2 commission has received from any source, including the department. The
3 commission must make available on its internet web site all information
4 received as a result of the petition.

5 NEW SECTION. **Sec. 2.** The legislature recognizes that the
6 department of fish and wildlife has multiple, and sometimes
7 conflicting, mandates as outlined in RCW 77.04.012. The intent of
8 establishing a biological science review process is to provide for a
9 degree of certainty that the fish and wildlife management decisions
10 being made by the state are reflective of the most current scientific
11 standards. It is not the intent of the legislature for the biological
12 science review process to provide input as to how the department of
13 fish and wildlife and the fish and wildlife commission balance the
14 competing mandates of RCW 77.04.012. Rather, the intent of the
15 legislature is to ensure that the fish and wildlife management decision
16 makers are relying on the best possible science to guide them with the
17 implementation of their mandates.

18 NEW SECTION. **Sec. 3.** A new section is added to chapter 77.15 RCW
19 to read as follows:

20 (1) It is unlawful to willfully start a fire on lands owned or
21 controlled by the department that are not forest lands as that term is
22 defined in RCW 76.04.005.

23 (2) Nothing in this section prohibits the use of campfires as
24 defined by rule of the commission, fires in stoves, lanterns and
25 barbeques, and fire used by the department or other federal, state, or
26 local agencies for habitat management or firefighting efforts.

27 (3) A violation of this section is a gross misdemeanor.

28 NEW SECTION. **Sec. 4.** A new section is added to chapter 77.12 RCW
29 to read as follows:

30 (1) Any person whose negligence is responsible for the starting of
31 a fire on land owned or controlled by the department or whose
32 negligence is responsible for starting or allowing an existing fire to
33 spread onto land owned or controlled by the department is liable for
34 any reasonable expenses incurred by the state, a municipality, or any
35 fire protection agency of the United States.

1 (2) The department or agency incurring any reasonable expenses has
2 a lien for the same against any property of the person, firm, or
3 corporation liable under subsection (1) of this section by filing a
4 claim of lien naming the person, firm, or corporation describing the
5 property against which the lien is claimed, specifying the amount
6 expended on the lands on which the firefighting took place and the
7 period during which the reasonable expenses were incurred, and signing
8 the claim with a post office address. No claim of lien is valid unless
9 filed, with the county auditor of the county in which the property
10 sought to be charged is located, within a period of one hundred twenty
11 days after the reasonable expenses of the claimant are incurred. The
12 lien may be foreclosed in the same manner as a mechanic's lien is
13 foreclosed under chapter 60.04 RCW.

14 (3) For the purposes of this section:

15 (a) "Reasonable expenses" includes the costs associated with
16 fighting the fire, together with the costs of investigation and
17 litigation including reasonable attorneys' fees and court costs.

18 (b) "Land owned or controlled by the department" means lands that
19 are not included within the definition of forest land as that term is
20 defined in RCW 76.04.005.

21 (4) This section does not apply in any case where recovery is
22 provided under RCW 76.04.495.

23 **Sec. 5.** RCW 77.15.650 and 2008 c 10 s 2 are each amended to read
24 as follows:

25 (1) A person is guilty of unlawful purchase or use of a license in
26 the second degree if the person buys, holds, uses, displays, transfers,
27 or obtains any license, tag, permit, or approval required by this title
28 and the person:

29 (a) Uses false information to buy, hold, use, display, or obtain a
30 license, permit, tag, or approval;

31 (b) Acquires, holds, or buys in excess of one license, permit, or
32 tag for a license year if only one license, permit, or tag is allowed
33 per license year;

34 (c) Except as authorized under RCW 77.32.565, uses or displays a
35 license, permit, tag, or approval that was issued to another person;

36 (d) Except as authorized under RCW 77.32.565, permits or allows a

1 license, permit, tag, or approval to be used or displayed by another
2 person not named on the license, permit, tag, or approval;

3 (e) Acquires or holds a license while privileges for the license
4 are revoked or suspended;

5 (f) Holds a resident license from another state or country. This
6 subsection (1)(f) only applies if the Washington license, tag, permit,
7 or approval that the person buys, holds, uses, displays, transfers, or
8 obtains is a resident license. It is prima facie evidence of a
9 violation of this section if any person who has a resident license from
10 another state or country purchases a resident license, tag, permit, or
11 approval in Washington. This subsection does not apply to individuals
12 who meet the definition of "resident" in section 10(2) and (3) of this
13 act.

14 (2) A person is guilty of unlawful purchase or use of a license in
15 the first degree if the person commits the act described by subsection
16 (1) of this section and the person was acting with intent that the
17 license, permit, tag, or approval be used for any commercial purpose.
18 A person is presumed to be acting with such intent if the violation
19 involved obtaining, holding, displaying, or using a license or permit
20 for participation in any commercial fishery issued under this title or
21 a license authorizing fish or wildlife buying, trafficking, or
22 wholesaling.

23 (3)(a) Unlawful purchase or use of a license in the second degree
24 is a gross misdemeanor. Upon conviction, the department shall revoke
25 any unlawfully used or held licenses and order a two-year suspension of
26 participation in the activities for which the person unlawfully
27 obtained, held, or used a license, permit, tag, or approval.

28 (b) Unlawful purchase or use of a license in the first degree is a
29 class C felony. Upon conviction, the department shall revoke any
30 unlawfully used or held licenses and order a five-year suspension of
31 participation in any activities for which the person unlawfully
32 obtained, held, or used a license, permit, tag, or approval.

33 (4) For purposes of this section, a person "uses" a license,
34 permit, tag, or approval if the person engages in any activity
35 authorized by the license, permit, tag, or approval held or possessed
36 by the person. Such uses include but are not limited to fishing,
37 hunting, taking, trapping, delivery or landing fish or wildlife, and
38 selling, buying, or wholesaling of fish or wildlife.

1 (5) Any license obtained in violation of this section is void upon
2 issuance and is of no legal effect.

3 NEW SECTION. **Sec. 6.** A new section is added to chapter 77.15 RCW
4 to read as follows:

5 (1) A taxidermist, fur dealer, or wildlife meat cutter is guilty of
6 failing to maintain business records and report if the person acts for
7 commercial purposes, processes, holds, or stores wildlife; and:

8 (a) Fails to maintain records as required under subsections (2)
9 through (5) of this section; or

10 (b) Violates any rule of the department by failing to report
11 information from these records.

12 (2) A taxidermist, fur dealer, or wildlife meat cutter who
13 processes, holds, or stores wildlife must keep a record of each
14 wildlife carcass or part received.

15 (3) All records of receipt of wildlife must be maintained at the
16 location where the wildlife is being processed, held, or stored, or at
17 the principal place of business of the wildlife meat cutter,
18 taxidermist, or fur dealer.

19 (4) Records of the receipt of wildlife that are required to be kept
20 under this section must be in the English language and be maintained
21 for three years from the date the wildlife is processed, held, or
22 stored.

23 (5) The form and content of records maintained by taxidermists, fur
24 dealers, and wildlife meat cutters who process, hold, or store wildlife
25 must be determined by the commission by rule. However, the records
26 must include:

27 (a) Either the unique license number issued by the department to
28 the person delivering the wildlife or wildlife parts or the name,
29 address, and phone number of the person or company from whom the
30 wildlife or wildlife parts were received;

31 (b) The date of receipt; and

32 (c) The number and species of wildlife carcasses or parts received.

33 (6) Taxidermists, fur dealers, and wildlife meat cutters who fail
34 to maintain business records in accordance with this section or fail to
35 report information from the records as required by rule of the
36 department are guilty of a misdemeanor.

1 **Sec. 7.** RCW 77.15.110 and 2002 c 127 s 2 are each amended to read
2 as follows:

3 (1) For purposes of this chapter, a person acts for commercial
4 purposes if the person engages in conduct that relates to commerce in
5 fish, seaweed, shellfish, or wildlife or any parts thereof. Commercial
6 conduct may include taking, delivering, selling, buying, or trading
7 fish, seaweed, shellfish, or wildlife where there is present or future
8 exchange of money, goods, or any valuable consideration. Evidence that
9 a person acts for commercial purposes includes, but is not limited to,
10 the following conduct:

11 (a) Using gear typical of that used in commercial fisheries;

12 (b) Exceeding the bag or possession limits for personal use by
13 taking or possessing more than three times the amount of fish, seaweed,
14 shellfish, or wildlife allowed;

15 (c) Delivering or attempting to deliver fish, seaweed, shellfish,
16 or wildlife to a person who sells or resells fish, seaweed, shellfish,
17 or wildlife including any licensed or unlicensed wholesaler;

18 (d) Taking fish or shellfish using a vessel designated on a
19 commercial fishery license or using gear not authorized in a personal
20 use fishery;

21 (e) Using a commercial fishery license;

22 (f) Selling or dealing in raw furs for a fee or in exchange for
23 goods or services; ((~~or~~))

24 (g) Performing taxidermy service on fish, shellfish, or wildlife
25 belonging to another person for a fee or receipt of goods or services;
26 or

27 (h) Packs, cuts, processes, or stores the meat of wildlife for
28 consumption, for a fee or in exchange for goods or services.

29 (2) For purposes of this chapter, the value of any fish, seaweed,
30 shellfish, or wildlife may be proved based on evidence of legal or
31 illegal sales involving the person charged or any other person, of
32 offers to sell or solicitation of offers to sell by the person charged
33 or by any other person, or of any market price for the fish, seaweed,
34 shellfish, or wildlife including market price for farm-raised game
35 animals. The value assigned to specific fish, seaweed, shellfish, or
36 wildlife by RCW 77.15.420 may be presumed to be the value of such fish,
37 seaweed, shellfish, or wildlife. It is not relevant to proof of value
38 that the person charged misrepresented that the fish, seaweed,

1 shellfish, or wildlife was taken in compliance with law if the fish,
2 seaweed, shellfish, or wildlife was unlawfully taken and had no lawful
3 market value.

4 **Sec. 8.** RCW 77.15.280 and 2008 c 244 s 2 are each amended to read
5 as follows:

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

8 (a) Fails to make a harvest log report of a commercial fish or
9 shellfish catch in violation of any rule of the commission or the
10 director;

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

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

15 (d) Fails to return a catch record card to the department as
16 required by rule of the commission or director, except for catch record
17 cards officially endorsed for Puget Sound Dungeness crab.

18 (2) Violating rules requiring reporting of fish or wildlife harvest
19 is a misdemeanor.

20 **Sec. 9.** RCW 77.08.010 and 2009 c 333 s 12 are each amended to read
21 as follows:

22 The definitions in this section apply throughout this title or
23 rules adopted under this title unless the context clearly requires
24 otherwise.

25 (1) "Angling gear" means a line attached to a rod and reel capable
26 of being held in hand while landing the fish or a hand-held line
27 operated without rod or reel.

28 (2) "Aquatic invasive species" means any invasive, prohibited,
29 regulated, unregulated, or unlisted aquatic animal or plant species as
30 defined under subsections (3), (~~((28), (40), (44), (58), and (59))~~)
31 (26), (38), (42), (56), and (57) of this section, aquatic noxious weeds
32 as defined under RCW 17.26.020(5)(c), and aquatic nuisance species as
33 defined under RCW 77.60.130(1).

34 (3) "Aquatic plant species" means an emergent, submersed, partially
35 submersed, free-floating, or floating-leaving plant species that grows
36 in or near a body of water or wetland.

1 (4) "Bag limit" means the maximum number of game animals, game
2 birds, or game fish which may be taken, caught, killed, or possessed by
3 a person, as specified by rule of the commission for a particular
4 period of time, or as to size, sex, or species.

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

7 (6) "Closed season" means all times, manners of taking, and places
8 or waters other than those established by rule of the commission as an
9 open season. "Closed season" also means all hunting, fishing, taking,
10 or possession of game animals, game birds, game fish, food fish, or
11 shellfish that do not conform to the special restrictions or physical
12 descriptions established by rule of the commission as an open season or
13 that have not otherwise been deemed legal to hunt, fish, take, harvest,
14 or possess by rule of the commission as an open season.

15 (7) "Closed waters" means all or part of a lake, river, stream, or
16 other body of water, where fishing or harvesting is prohibited.

17 (8) "Commercial" means related to or connected with buying,
18 selling, or bartering.

19 (9) "Commission" means the state fish and wildlife commission.

20 (10) "Concurrent waters of the Columbia river" means those waters
21 of the Columbia river that coincide with the Washington-Oregon state
22 boundary.

23 (11) "Contraband" means any property that is unlawful to produce or
24 possess.

25 (12) "Deleterious exotic wildlife" means species of the animal
26 kingdom not native to Washington and designated as dangerous to the
27 environment or wildlife of the state.

28 (13) "Department" means the department of fish and wildlife.

29 (14) "Director" means the director of fish and wildlife.

30 (15) "Endangered species" means wildlife designated by the
31 commission as seriously threatened with extinction.

32 (16) (~~"Ex officio fish and wildlife officer" means a commissioned~~
33 ~~officer of a municipal, county, state, or federal agency having as its~~
34 ~~primary function the enforcement of criminal laws in general, while the~~
35 ~~officer is in the appropriate jurisdiction. The term "ex officio fish~~
36 ~~and wildlife officer" includes special agents of the national marine~~
37 ~~fisheries service, state parks commissioned officers, United States~~

1 ~~fish and wildlife special agents, department of natural resources~~
2 ~~enforcement officers, and United States forest service officers, while~~
3 ~~the agents and officers are within their respective jurisdictions.~~

4 ~~(17))~~ "Fish" includes all species classified as game fish or food
5 fish by statute or rule, as well as all fin fish not currently
6 classified as food fish or game fish if such species exist in state
7 waters. The term "fish" includes all stages of development and the
8 bodily parts of fish species.

9 ~~((18) "Fish and wildlife officer" means a person appointed and~~
10 ~~commissioned by the director, with authority to enforce this title and~~
11 ~~rules adopted pursuant to this title, and other statutes as prescribed~~
12 ~~by the legislature. Fish and wildlife officer includes a person~~
13 ~~commissioned before June 11, 1998, as a wildlife agent or a fisheries~~
14 ~~patrol officer.~~

15 ~~(19))~~ (17) "Fish broker" means a person whose business it is to
16 bring a seller of fish and shellfish and a purchaser of those fish and
17 shellfish together.

18 ~~((20))~~ (18) "Fishery" means the taking of one or more particular
19 species of fish or shellfish with particular gear in a particular
20 geographical area.

21 ~~((21))~~ (19) "Freshwater" means all waters not defined as
22 saltwater including, but not limited to, rivers upstream of the river
23 mouth, lakes, ponds, and reservoirs.

24 ~~((22))~~ (20) "Fur-bearing animals" means game animals that shall
25 not be trapped except as authorized by the commission.

26 ~~((23))~~ (21) "Game animals" means wild animals that shall not be
27 hunted except as authorized by the commission.

28 ~~((24))~~ (22) "Game birds" means wild birds that shall not be
29 hunted except as authorized by the commission.

30 ~~((25))~~ (23) "Game farm" means property on which wildlife is held
31 ~~((or)), confined, propagated, hatched, fed, or otherwise~~ raised for
32 commercial purposes, trade, or gift. The term "game farm" does not
33 include publicly owned facilities.

34 ~~((26))~~ (24) "Game reserve" means a closed area where hunting for
35 all wild animals and wild birds is prohibited.

36 ~~((27))~~ (25) "Illegal items" means those items unlawful to be
37 possessed.

1 ~~((+28+))~~ (26) "Invasive species" means a plant species or a
2 nonnative animal species that either:
3 (a) Causes or may cause displacement of, or otherwise threatens,
4 native species in their natural communities;
5 (b) Threatens or may threaten natural resources or their use in the
6 state;
7 (c) Causes or may cause economic damage to commercial or
8 recreational activities that are dependent upon state waters; or
9 (d) Threatens or harms human health.
10 ~~((+29+))~~ (27) "License year" means the period of time for which a
11 recreational license is valid. The license year begins April 1st, and
12 ends March 31st.
13 ~~((+30+))~~ (28) "Limited-entry license" means a license subject to a
14 license limitation program established in chapter 77.70 RCW.
15 ~~((+31+))~~ (29) "Money" means all currency, script, personal checks,
16 money orders, or other negotiable instruments.
17 ~~((+32+))~~ (30) "Nonresident" means a person who has not fulfilled
18 the qualifications of a resident.
19 ~~((+33+))~~ (31) "Offshore waters" means marine waters of the Pacific
20 Ocean outside the territorial boundaries of the state, including the
21 marine waters of other states and countries.
22 ~~((+34+))~~ (32) "Open season" means those times, manners of taking,
23 and places or waters established by rule of the commission for the
24 lawful hunting, fishing, taking, or possession of game animals, game
25 birds, game fish, food fish, or shellfish that conform to the special
26 restrictions or physical descriptions established by rule of the
27 commission or that have otherwise been deemed legal to hunt, fish,
28 take, harvest, or possess by rule of the commission. "Open season"
29 includes the first and last days of the established time.
30 ~~((+35+))~~ (33) "Owner" means the person in whom is vested the
31 ownership dominion, or title of the property.
32 ~~((+36+))~~ (34) "Person" means and includes an individual; a
33 corporation; a public or private entity or organization; a local,
34 state, or federal agency; all business organizations, including
35 corporations and partnerships; or a group of two or more individuals
36 acting with a common purpose whether acting in an individual,
37 representative, or official capacity.

1 ((+37+)) (35) "Personal property" or "property" includes both
2 corporeal and incorporeal personal property and includes, among other
3 property, contraband and money.

4 ((+38+)) (36) "Personal use" means for the private use of the
5 individual taking the fish or shellfish and not for sale or barter.

6 ((+39+)) (37) "Predatory birds" means wild birds that may be hunted
7 throughout the year as authorized by the commission.

8 ((+40+)) (38) "Prohibited aquatic animal species" means an invasive
9 species of the animal kingdom that has been classified as a prohibited
10 aquatic animal species by the commission.

11 ((+41+)) (39) "Protected wildlife" means wildlife designated by the
12 commission that shall not be hunted or fished.

13 ((+42+)) (40) "Raffle" means an activity in which tickets bearing
14 an individual number are sold for not more than twenty-five dollars
15 each and in which a permit or permits are awarded to hunt or for access
16 to hunt big game animals or wild turkeys on the basis of a drawing from
17 the tickets by the person or persons conducting the raffle.

18 ((+43+)) (41) "Recreational and commercial watercraft" includes the
19 boat, as well as equipment used to transport the boat, and any
20 auxiliary equipment such as attached or detached outboard motors.

21 ((+44+)) (42) "Regulated aquatic animal species" means a
22 potentially invasive species of the animal kingdom that has been
23 classified as a regulated aquatic animal species by the commission.

24 ((+45+)) (43) "Resident" (~~means:~~
25 ~~(a) A person who has maintained a permanent place of abode within~~
26 ~~the state for at least ninety days immediately preceding an application~~
27 ~~for a license, has established by formal evidence an intent to continue~~
28 ~~residing within the state, and who is not licensed to hunt or fish as~~
29 ~~a resident in another state; and~~

30 ~~(b) A person age eighteen or younger who does not qualify as a~~
31 ~~resident under (a) of this subsection, but who has a parent that~~
32 ~~qualifies as a resident under (a) of this subsection)) has the same
33 meaning as defined in section 10 of this act.~~

34 ((+46+)) (44) "Retail-eligible species" means commercially
35 harvested salmon, crab, and sturgeon.

36 ((+47+)) (45) "Saltwater" means those marine waters seaward of
37 river mouths.

1 ~~((48))~~ (46) "Seaweed" means marine aquatic plant species that are
2 dependent upon the marine aquatic or tidal environment, and exist in
3 either an attached or free floating form, and includes but is not
4 limited to marine aquatic plants in the classes Chlorophyta,
5 Phaeophyta, and Rhodophyta.

6 ~~((49))~~ (47) "Senior" means a person seventy years old or older.

7 ~~((50))~~ (48) "Shellfish" means those species of marine and
8 freshwater invertebrates that have been classified and that shall not
9 be taken except as authorized by rule of the commission. The term
10 "shellfish" includes all stages of development and the bodily parts of
11 shellfish species.

12 ~~((51))~~ (49) "State waters" means all marine waters and fresh
13 waters within ordinary high water lines and within the territorial
14 boundaries of the state.

15 ~~((52))~~ (50) "To fish," "to harvest," and "to take," and their
16 derivatives means an effort to kill, injure, harass, or catch a fish or
17 shellfish.

18 ~~((53))~~ (51) "To hunt" and its derivatives means an effort to
19 kill, injure, capture, or harass a wild animal or wild bird.

20 ~~((54))~~ (52) "To process" and its derivatives mean preparing or
21 preserving fish, wildlife, or shellfish.

22 ~~((55))~~ (53) "To trap" and its derivatives means a method of
23 hunting using devices to capture wild animals or wild birds.

24 ~~((56))~~ (54) "Trafficking" means offering, attempting to engage,
25 or engaging in sale, barter, or purchase of fish, shellfish, wildlife,
26 or deleterious exotic wildlife.

27 ~~((57))~~ (55) "Unclaimed" means that no owner of the property has
28 been identified or has requested, in writing, the release of the
29 property to themselves nor has the owner of the property designated an
30 individual to receive the property or paid the required postage to
31 effect delivery of the property.

32 ~~((58))~~ (56) "Unlisted aquatic animal species" means a nonnative
33 animal species that has not been classified as a prohibited aquatic
34 animal species, a regulated aquatic animal species, or an unregulated
35 aquatic animal species by the commission.

36 ~~((59))~~ (57) "Unregulated aquatic animal species" means a
37 nonnative animal species that has been classified as an unregulated
38 aquatic animal species by the commission.

1 ((+60)) (58) "Wholesale fish dealer" means a person who, acting
2 for commercial purposes, takes possession or ownership of fish or
3 shellfish and sells, barter, or exchanges or attempts to sell, barter,
4 or exchange fish or shellfish that have been landed into the state of
5 Washington or entered the state of Washington in interstate or foreign
6 commerce.

7 ((+61)) (59) "Wild animals" means those species of the class
8 Mammalia whose members exist in Washington in a wild state (~~and the~~
9 ~~species Rana catesbeiana (bullfrog)~~). The term "wild animal" does not
10 include feral domestic mammals or old world rats and mice of the family
11 Muridae of the order Rodentia.

12 ((+62)) (60) "Wild birds" means those species of the class Aves
13 whose members exist in Washington in a wild state.

14 ((+63)) (61) "Wildlife" means all species of the animal kingdom
15 whose members exist in Washington in a wild state. This includes but
16 is not limited to mammals, birds, reptiles, amphibians, fish, and
17 invertebrates. The term "wildlife" does not include feral domestic
18 mammals, old world rats and mice of the family Muridae of the order
19 Rodentia, or those fish, shellfish, and marine invertebrates classified
20 as food fish or shellfish by the director. The term "wildlife"
21 includes all stages of development and the bodily parts of wildlife
22 members.

23 ((+64)) (62) "Youth" means a person fifteen years old for fishing
24 and under sixteen years old for hunting.

25 (63) "Fur dealer" means a person who purchases, receives, or
26 resells raw furs for commercial purposes.

27 (64) "Natural person" means a human being.

28 (65) "Taxidermist" means a person who, for commercial purposes,
29 creates lifelike representations of fish and wildlife using fish and
30 wildlife parts and various supporting structures.

31 (66) "Wildlife meat cutter" means a person who packs, cuts,
32 processes, or stores wildlife for consumption for another for
33 commercial purposes.

34 NEW SECTION. Sec. 10. A new section is added to chapter 77.08 RCW
35 to read as follows:

36 For the purposes of this title or rules adopted under this title,
37 "resident" means:

1 (1) A natural person who has maintained a permanent place of abode
2 within the state for at least ninety days immediately preceding an
3 application for a license, has established by formal evidence an intent
4 to continue residing within the state, is not licensed to hunt or fish
5 as a resident in another state or country, and is not receiving
6 resident benefits of another state or country.

7 (a) For purposes of this section, "permanent place of abode" means
8 a residence in this state that a person maintains for personal use.

9 (b) A natural person can demonstrate that he or she has maintained
10 a permanent place of abode in Washington by showing that he or she:

11 (i) Uses a Washington state address for federal income tax or state
12 tax purposes;

13 (ii) Designates this state as his or her residence for obtaining
14 eligibility to hold a public office or for judicial actions;

15 (iii) Is a registered voter in the state of Washington; or

16 (iv) Is a custodial parent with a child attending prekindergarten,
17 kindergarten, elementary school, middle school, or high school in this
18 state.

19 (c) A natural person can demonstrate the intent to continue
20 residing within the state by showing that he or she:

21 (i) Has a valid Washington state driver's license; or

22 (ii) Has a valid Washington state identification card, if he or she
23 is not eligible for a Washington state driver's license; and

24 (iii) Has registered his or her vehicle or vehicles in Washington
25 state.

26 (2) The spouse of a member of the United States armed forces if the
27 member qualifies as a resident under subsection (1), (3), or (4) of
28 this section, or a natural person age eighteen or younger who does not
29 qualify as a resident under subsection (1) of this section, but who has
30 a parent or legal guardian who qualifies as a resident under subsection
31 (1), (3), or (4) of this section.

32 (3) A member of the United States armed forces temporarily
33 stationed in Washington state on predeployment orders. A copy of the
34 person's military orders is required to meet this condition.

35 (4) A member of the United States armed forces who is permanently
36 stationed in Washington state or who designates Washington state on
37 their military "state of legal residence certificate" or enlistment or
38 re-enlistment documents, and who does not have a license to hunt or

1 fish as a resident in another state or country. A copy of the person's
2 "state of legal residence certificate" or enlistment or re-enlistment
3 documents is required to meet the conditions of this subsection.

4 **Sec. 11.** RCW 77.12.020 and 2002 c 281 s 3 are each amended to read
5 as follows:

6 (1) The director shall investigate the habits and distribution of
7 the various species of wildlife native to or adaptable to the habitats
8 of the state. The commission shall determine whether a species should
9 be managed by the department and, if so, classify it under this
10 section.

11 (2) The commission may classify by rule wild animals as game
12 animals and game animals as fur-bearing animals.

13 (3) The commission may classify by rule wild birds as game birds or
14 predatory birds. All wild birds not otherwise classified are protected
15 wildlife.

16 (4) In addition to those species listed in RCW 77.08.020, the
17 commission may classify by rule as game fish other species of the class
18 Osteichthyes that are commonly found in fresh water except those
19 classified as food fish by the director.

20 (5) The director may recommend to the commission that a species of
21 wildlife should not be hunted or fished. The commission may designate
22 species of wildlife as protected.

23 (6) If the director determines that a species of wildlife is
24 seriously threatened with extinction in the state of Washington, the
25 director may request its designation as an endangered species. The
26 commission may designate an endangered species.

27 (7) If the common name of a species or the common name of a class
28 of species is used in this title, the commission has the authority to
29 identify by rule, for the purposes of administering this title, the
30 taxonomical name or names of the species associated with the common
31 name or the species that comprise the class identified by its common
32 name.

33 (8) If the director determines that a species of the animal
34 kingdom, not native to Washington, is dangerous to the environment or
35 wildlife of the state, the director may request its designation as
36 deleterious exotic wildlife. The commission may designate deleterious
37 exotic wildlife.

1 (~~(8)~~) (9) Upon recommendation by the director, the commission may
2 classify nonnative aquatic animal species according to the following
3 categories:

4 (a) Prohibited aquatic animal species: These species are
5 considered by the commission to have a high risk of becoming an
6 invasive species and may not be possessed, imported, purchased, sold,
7 propagated, transported, or released into state waters except as
8 provided in RCW 77.15.253;

9 (b) Regulated aquatic animal species: These species are considered
10 by the commission to have some beneficial use along with a moderate,
11 but manageable risk of becoming an invasive species, and may not be
12 released into state waters, except as provided in RCW 77.15.253. The
13 commission shall classify the following commercial aquaculture species
14 as regulated aquatic animal species, and allow their release into state
15 waters pursuant to rule of the commission: Pacific oyster (*Crassostrea*
16 *gigas*), kumamoto oyster (*Crassostrea sikamea*), European flat oyster
17 (*Ostrea edulis*), eastern oyster (*Crassostrea virginica*), manila clam
18 (*Tapes philippinarum*), blue mussel (*Mytilus galloprovincialis*), and
19 suminoe oyster (*Crassostrea ariankensis*);

20 (c) Unregulated aquatic animal species: These species are
21 considered by the commission as having some beneficial use along with
22 a low risk of becoming an invasive species, and are not subject to
23 regulation under this title;

24 (d) Unlisted aquatic animal species: These species are not
25 designated as a prohibited aquatic animal species, regulated aquatic
26 animal species, or unregulated aquatic animal species by the
27 commission, and may not be released into state waters. Upon request,
28 the commission may determine the appropriate category for an unlisted
29 aquatic animal species and classify the species accordingly;

30 (e) This subsection (~~(8)~~) (9) does not apply to the
31 transportation or release of nonnative aquatic animal species by
32 ballast water or ballast water discharge.

33 (~~(9)~~) (10) Upon recommendation by the director, the commission
34 may develop a work plan to eradicate native aquatic species that
35 threaten human health. Priority shall be given to water bodies that
36 the department of health has classified as representing a threat to
37 human health based on the presence of a native aquatic species.

1 **Sec. 12.** RCW 77.65.110 and 2001 c 105 s 4 are each amended to read
2 as follows:

3 This section applies to all commercial fishery licenses(~~(, charter~~
4 ~~boat license[s],)~~) and delivery licenses.

5 (1) A person designated as an alternate operator must possess an
6 alternate operator license issued under RCW 77.65.130, and be
7 designated on the license prior to engaging in the activities
8 authorized by the license. The holder of the commercial fishery
9 license(~~(, charter boat license,)~~) or delivery license may designate up
10 to two alternate operators for the license, except:

11 (a) Whiting--Puget Sound fishery licensees may not designate
12 alternate operators;

13 (b) Emergency salmon delivery licensees may not designate alternate
14 operators;

15 (c) Shrimp pot-Puget Sound fishery licensees may designate no more
16 than one alternate operator at a time; and

17 (d) Shrimp trawl-Puget Sound fishery licensees may designate no
18 more than one alternate operator at a time.

19 (2) The fee to change the alternate operator designation is twenty-
20 two dollars.

21 **Sec. 13.** RCW 77.65.130 and 2005 c 82 s 2 are each amended to read
22 as follows:

23 (1) A person who holds a commercial fishery license or a delivery
24 license may operate the vessel designated on the license. A person who
25 is not the license holder may operate the vessel designated on the
26 license only if:

27 (a) The person is operating a charter boat; or

28 (b) The person holds an alternate operator license issued by the
29 director(~~(+)~~) and (~~(+b)~~) the person is designated as an alternate
30 operator on the underlying commercial fishery license or delivery
31 license under RCW 77.65.110.

32 (2) Only an individual at least sixteen years of age may hold an
33 alternate operator license.

34 (3) No individual may hold more than one alternate operator
35 license. An individual who holds an alternate operator license may be
36 designated as an alternate operator on an unlimited number of
37 commercial fishery licenses or delivery licenses under RCW 77.65.110.

1 (4) An individual who holds two Dungeness crab--Puget Sound fishery
2 licenses may operate the licenses on one vessel if the license holder
3 or alternate operator is on the vessel. The department shall allow a
4 license holder to operate up to one hundred crab pots for each license.

5 (5) Two persons owning separate Dungeness crab--Puget Sound fishery
6 licenses may operate both licenses on one vessel if the license holders
7 or their alternate operators are on the vessel.

8 (6) As used in this section, to "operate" means to control the
9 deployment or removal of fishing gear from state waters while aboard a
10 vessel or to operate a vessel delivering food fish or shellfish taken
11 in offshore waters to a port within the state.

12 **Sec. 14.** RCW 77.15.720 and 2000 c 107 s 258 are each amended to
13 read as follows:

14 (1) If a person (~~((shoots))~~) discharges a firearm, bow, or crossbow
15 while hunting and in a manner that injures, or that a reasonable person
16 would believe is likely to injure, another person or domestic livestock
17 ~~((while hunting))~~ or kills domestic livestock, the director shall
18 revoke all of the shooter's hunting licenses and suspend all hunting
19 privileges for three years. If the shooting (~~((of another person or~~
20 ~~livestock is the result of criminal negligence or reckless or~~
21 ~~intentional conduct, then the person's))~~) kills or results in the death
22 of another person, then the director shall revoke all of the shooter's
23 hunting licenses and suspend all of the person's hunting privileges
24 ~~((shall be suspended))~~ for ten years. The suspension shall be
25 continued beyond these periods if damages owed to the victim or
26 livestock owner have not been paid by the suspended person. ~~((A))~~ In
27 such a case, no hunting license shall ~~((not))~~ be reissued to the
28 suspended person unless authorized by the director.

29 ~~((Within twenty days of service of an order suspending~~
30 ~~privileges or imposing conditions under this section or RCW 77.15.710,~~
31 ~~a person may petition for administrative review under chapter 34.05 RCW~~
32 ~~by serving the director with a petition for review. The order is final~~
33 ~~and unappealable if there is no timely petition for administrative~~
34 ~~review.))~~ A person who is notified of a license revocation under this
35 section may request an appeal hearing under chapter 34.05 RCW.

36 (3) The commission may by rule authorize petitions for

1 reinstatement of administrative suspensions and define circumstances
2 under which such a reinstatement will be allowed.

3 **Sec. 15.** RCW 77.15.130 and 1998 c 190 s 14 are each amended to
4 read as follows:

5 (1) A person is guilty of unlawful taking of protected fish or
6 wildlife if:

7 (a) The person hunts, fishes, possesses, or maliciously kills
8 protected fish or wildlife, or the person possesses or maliciously
9 destroys the eggs or nests of protected fish or wildlife, and the
10 taking has not been authorized by rule of the commission; or

11 (b) The person violates any rule of the commission regarding the
12 taking, harming, harassment, possession, or transport of protected fish
13 or wildlife.

14 (2) Unlawful taking of protected fish or wildlife is a misdemeanor.

15 (3) In addition to the penalties set forth in subsections (1) and
16 (2) of this section, if a person is convicted of violating this section
17 and the violation results in the death of wildlife listed in this
18 subsection, the court shall require payment of the following amounts
19 for each animal killed or possessed. This is a criminal wildlife
20 penalty assessment that must be paid to the clerk of the court and
21 distributed each month to the state treasurer for deposit in the fish
22 and wildlife enforcement reward account created in RCW 77.15.425.

23 (a) Ferruginous hawk \$2,000

24 (b) Common loon \$2,000

25 (c) Bald eagle \$2,000

26 (d) Peregrine falcon \$2,000

27 (4) If two or more persons are convicted of illegally possessing
28 wildlife in subsection (1) of this section, the criminal wildlife
29 penalty assessment must be imposed against them jointly and separately.

30 (5)(a) The criminal wildlife penalty assessment must be imposed
31 regardless of and in addition to any sentence, fines, or costs
32 otherwise provided for violating any provision of this section. The
33 criminal wildlife penalty assessment must be included by the court in
34 any pronouncement of sentence and may not be suspended, waived,
35 modified, or deferred in any respect.

36 (b) This subsection may not be construed to abridge or alter

1 alternative rights of action or remedies in equity or under common law
2 or statutory law, criminal or civil.

3 (6) A defaulted criminal wildlife penalty assessment may be
4 collected by any means authorized by law for the enforcement of orders
5 of the court or collection of a fine or costs, including but not
6 limited to vacation of a deferral of sentencing or vacation of a
7 suspension of sentence.

8 (7) The department shall revoke any licenses or tags used in
9 connection with a violation of this section and order the person's
10 privileges to hunt, fish, trap, and obtain licenses under this title to
11 be suspended for three years.

12 **Sec. 16.** RCW 77.15.120 and 2000 c 107 s 236 are each amended to
13 read as follows:

14 (1) A person is guilty of unlawful taking of endangered fish or
15 wildlife in the second degree if the person hunts, fishes, possesses,
16 maliciously harasses or kills fish or wildlife, or maliciously destroys
17 the nests or eggs of fish or wildlife and the fish or wildlife is
18 designated by the commission as endangered, and the taking has not been
19 authorized by rule of the commission.

20 (2) A person is guilty of unlawful taking of endangered fish or
21 wildlife in the first degree if the person has been:

22 (a) Convicted under subsection (1) of this section or convicted of
23 any crime under this title involving the killing, possessing,
24 harassing, or harming of endangered fish or wildlife; and

25 (b) Within five years of the date of the prior conviction the
26 person commits the act described by subsection (1) of this section.

27 (3)(a) Unlawful taking of endangered fish or wildlife in the second
28 degree is a gross misdemeanor.

29 (b) Unlawful taking of endangered fish or wildlife in the first
30 degree is a class C felony. The department shall revoke any licenses
31 or tags used in connection with the crime and order the person's
32 privileges to hunt, fish, trap, or obtain licenses under this title to
33 be suspended for (~~two~~) three years.

34 NEW SECTION. **Sec. 17.** It is the intent of the legislature to
35 prevent predatory wildlife from becoming habituated to humans and to
36 protect the public against the serious health and safety risk posed by

1 predatory wildlife who are drawn into contact with humans and related
2 infrastructure by individuals who feed predatory wildlife negligently
3 or intentionally.

4 NEW SECTION. **Sec. 18.** A new section is added to chapter 77.15 RCW
5 to read as follows:

6 (1) A person may not negligently feed or attempt to feed predatory
7 wildlife or negligently attract predatory wildlife to land or a
8 building.

9 (2) If a fish and wildlife officer or animal control authority as
10 defined in RCW 16.30.010, has probable cause to believe that a person
11 is negligently feeding, attempting to feed, or attracting predatory
12 wildlife to a land or building by placing or locating food, food waste,
13 or another substance in, upon, or about any land or building, and the
14 food, food waste, or other substance poses a risk to the safety of any
15 person because it is attracting or could attract predatory wildlife to
16 the land or building, the officer may issue an infraction under RCW
17 77.15.160.

18 (3) This section does not apply to:

19 (a) A person who is engaging in forest practices in accordance with
20 chapter 76.09 RCW or in hunting or trapping wildlife in accordance with
21 all other applicable provisions of this title or rules of the
22 commission or the director;

23 (b) A person who is engaging in a farming operation that is using
24 generally accepted farming practices;

25 (c) Waste disposal facilities that are operating in accordance with
26 applicable federal, state, and municipal laws;

27 (d) Zoos, lawfully operated wildlife refuges, and state licensed
28 wildlife rehabilitators; or

29 (e) A fish and wildlife officer, or employee or agent of the
30 department operating under the authority of or upon request from an
31 officer, conducting wildlife capture activities to address a threat to
32 human safety or a wildlife interaction as defined in RCW 77.36.010.

33 (4) The definitions in this subsection apply throughout this
34 section unless the context clearly requires otherwise.

35 (a) "Building" means a private domicile or home or public or
36 commercial building.

37 (b) "Predatory wildlife" means bear, cougar, and wolf.

1 (c) "Food, food waste, or other substance" means human and pet
2 food, or other waste or garbage that could attract wildlife.

3 (d) "Negligently feed, attempt to feed, or attract" means to
4 provide, leave, or place in, upon, or about any land or building any
5 food, food waste, or other substance that attracts or could attract
6 predatory wildlife to that land or building, without the awareness that
7 a reasonable person in the same situation would have with regard to the
8 likelihood that such food, food waste, or other substance could attract
9 predatory wildlife to the land or building. The term does not include
10 keeping food, food waste, or other substance in an enclosed garbage
11 receptacle or other enclosed container unless specifically directed by
12 a fish and wildlife officer or animal control authority to secure the
13 container in another manner.

14 NEW SECTION. **Sec. 19.** A new section is added to chapter 77.15 RCW
15 to read as follows:

16 (1) A person may not intentionally feed or attempt to feed
17 predatory wildlife or intentionally attract predatory wildlife to land
18 or a building.

19 (2) A person who intentionally feeds, attempts to feed, or attracts
20 predatory wildlife to land or a building is guilty of a misdemeanor.

21 (3) A person who is issued an infraction under section 18 of this
22 act for negligently feeding, attempting to feed, or attracting
23 predatory wildlife to land or a building, and who fails to contain,
24 move, or remove the food, food waste, or other substance within twenty-
25 four hours of being issued the citation, is guilty of a misdemeanor.

26 (4) This section does not apply to:

27 (a) A person who is engaging in forest practices in accordance with
28 chapter 76.09 RCW or in hunting or trapping wildlife in accordance with
29 all other applicable provisions of this title or rules of the
30 commission or the director;

31 (b) A person who is engaging in a farming operation that is using
32 generally accepted farming practices;

33 (c) Waste disposal facilities that are operating in accordance with
34 applicable federal, state, and municipal laws;

35 (d) Zoos, lawfully operated wildlife refuges, and state licensed
36 wildlife rehabilitators; or

1 (e) A fish and wildlife officer, or employee or agent of the
2 department operating under the authority of or upon request from an
3 officer, conducting wildlife capture activities to address a threat to
4 human safety or a wildlife interaction as defined in RCW 77.36.010.

5 (5) The definitions in this subsection apply throughout this
6 section unless the context clearly requires otherwise.

7 (a) "Building" means a private domicile or home or public or
8 commercial building.

9 (b) "Predatory wildlife" means bear, cougar, and wolf.

10 (c) "Food, food waste, or other substance" means human and pet
11 food, or other waste or garbage that could attract wildlife.

12 (d) "Intentionally feed, attempt to feed, or attract" means to
13 purposefully or knowingly provide, leave, or place in, upon, or about
14 any land or building any food, food waste, or other substance that
15 attracts or could attract predatory wildlife to that land or building.
16 The term does not include keeping food, food waste, or other substance
17 in an enclosed garbage receptacle or other enclosed container unless
18 specifically directed by a fish and wildlife officer or animal control
19 authority to secure the container in another manner.

20 **Sec. 20.** RCW 77.15.160 and 2000 c 107 s 237 are each amended to
21 read as follows:

22 A person is guilty of an infraction, which shall be cited and
23 punished as provided under chapter 7.84 RCW, if the person:

24 (1) Fails to immediately record a catch of fish or shellfish on a
25 catch record card required by RCW 77.32.430, or required by rule of the
26 commission under this title; or

27 (2) Fishes for personal use using barbed hooks in violation of any
28 rule; ((or))

29 (3) Negligently feeds, attempts to feed, or attract predatory
30 wildlife in violation of section 18 of this act; or

31 (4) Violates any other rule of the commission or director that is
32 designated by rule as an infraction.

33 **Sec. 21.** RCW 77.95.090 and 2009 c 340 s 4 are each amended to read
34 as follows:

35 The dedicated regional fisheries enhancement group account is
36 created in the custody of the state treasurer. Only the commission or

1 the commission's designee may authorize expenditures from the account.
2 The account is subject to allotment procedures under chapter 43.88 RCW,
3 but no appropriation is required for expenditures.

4 A portion of each recreational fishing license fee shall be used as
5 provided in RCW 77.32.440. A surcharge of one hundred dollars shall be
6 collected on each commercial salmon fishery license, each salmon
7 delivery license, and each salmon charter license sold in the state.
8 All receipts shall be placed in the regional fisheries enhancement
9 group account and shall be used exclusively for regional fisheries
10 enhancement group projects (~~for the purposes of RCW 77.95.110~~) except
11 that the department may use up to twenty-percent of the account funds
12 to provide agency assistance to the groups for professional,
13 administrative and technical assistance and training, project proposal
14 compatibility review, contract management, financial management of
15 regional fisheries enhancement group funds, and provide direction and
16 training in Washington state budgeting and accounting procedures.
17 Except as provided in RCW 77.95.320, funds from the regional fisheries
18 enhancement group account shall not serve as replacement funding for
19 department operated salmon projects that exist on January 1, 1991.

20 All revenue from the department's sale of salmon carcasses and eggs
21 that return to group facilities shall be deposited in the regional
22 fisheries enhancement group account for use by the regional fisheries
23 enhancement group that produced the surplus. The commission shall
24 adopt rules to implement this section pursuant to chapter 34.05 RCW.

25 **Sec. 22.** RCW 69.50.320 and 2003 c 175 s 2 are each amended to read
26 as follows:

27 The department of fish and wildlife may apply to the department of
28 health for registration pursuant to the applicable provisions of this
29 chapter to purchase, possess, and administer controlled substances for
30 use in chemical capture programs and to euthanize injured, sick, or
31 unwanted wildlife. The department of fish and wildlife must not permit
32 a person to administer controlled substances unless the person has
33 demonstrated adequate knowledge of the potential hazards and proper
34 techniques to be used in administering controlled substances.

35 The department of health (~~may~~) must issue a limited registration
36 to carry out the provisions of this section. The board may adopt rules
37 to ensure strict compliance with the provisions of this section. The

1 board, in consultation with the department of fish and wildlife, must
2 by rule add or remove additional controlled substances for use in
3 chemical capture programs. The board shall suspend or revoke
4 registration upon determination that the person administering
5 controlled substances has not demonstrated adequate knowledge as
6 required by this section. This authority is granted in addition to any
7 other power to suspend or revoke registration as provided by law.

8 **Sec. 23.** RCW 77.04.080 and 2000 c 107 s 205 are each amended to
9 read as follows:

10 (1)(a) Persons eligible for appointment as director shall have
11 practical knowledge of the habits and distribution of fish and
12 wildlife. The director shall supervise the administration and
13 operation of the department and perform the duties prescribed by law
14 and delegated by the commission. The director shall carry out the
15 basic goals and objectives prescribed under RCW 77.04.055. The
16 director may appoint and employ necessary personnel. The director may
17 delegate, in writing, to department personnel the duties and powers
18 necessary for efficient operation and administration of the department.

19 (b) Only persons having general knowledge of the fisheries and
20 wildlife resources and of the commercial and recreational fishing
21 industry in this state are eligible for appointment as director. The
22 director shall not have a financial interest in the fishing industry or
23 a directly related industry. The director shall receive the salary
24 fixed by the governor under RCW 43.03.040.

25 (c) The director is the ex officio secretary of the commission and
26 shall attend its meetings and keep a record of its business.

27 (2)(a) The director may appoint and commission fish and wildlife
28 officers to serve as general authority Washington peace officers, as
29 defined in RCW 10.93.020. Under the interlocal cooperation act,
30 chapter 39.34 RCW, the director may contract with general authority law
31 enforcement agencies, federal law enforcement agencies, and limited
32 authority law enforcement agencies to enforce this title and the rules
33 of the department to provide mutual law enforcement assistance as
34 defined in chapter 10.93 RCW.

35 (b) Any liability or claimed liability that arises out of the
36 exercise of authority by an officer acting under the mutual aid
37 contract is the responsibility of the primary commissioning agency

1 unless the officer acts under the direction and control of the
2 department or unless the liability is otherwise allocated under a
3 written agreement between the primary commissioning agency and the
4 department.

5 **Sec. 24.** RCW 77.12.071 and 2007 c 337 s 2 are each amended to read
6 as follows:

7 (1) Department employees, in carrying out their duties under this
8 title on public lands or state waters, may:

9 (a) Collect samples of tissue, fluids, or other bodily parts of
10 fish, wildlife, or shellfish; or

11 (b) Board vessels in state waters engaged in commercial and
12 recreational harvest activities to collect samples of fish, wildlife,
13 or shellfish.

14 (i) Department employees shall ask permission from the owner or his
15 or her agent before boarding vessels in state waters.

16 (ii) If an employee of the department is denied access to any
17 vessel where access was sought for the purposes of (b) of this
18 subsection, the department employee may contact an enforcement officer
19 for assistance in applying for a search warrant authorizing access to
20 the vessel in order to carry out the department employee's duties under
21 this section.

22 (2) Department employees must have official identification,
23 announce their presence and intent, and perform their duties in a safe
24 and professional manner while carrying out the activities in this
25 section.

26 (3) This section does not apply to the harvest of private sector
27 cultured aquatic products as defined in RCW 15.85.020.

28 (4) This section does not apply to fish and wildlife officers (~~and~~
29 ~~ex officio fish and wildlife officers~~) carrying out their duties under
30 this title.

31 **Sec. 25.** RCW 77.12.154 and 1998 c 190 s 71 are each amended to
32 read as follows:

33 The director, fish and wildlife officers, (~~ex officio fish and~~
34 ~~wildlife officers~~), and department employees may enter upon any land
35 or waters and remain there while performing their duties without
36 liability for trespass.

1 It is lawful for aircraft operated by the department to land and
2 take off from the beaches or waters of the state.

3 **Sec. 26.** RCW 77.15.070 and 2005 c 406 s 2 are each amended to read
4 as follows:

5 (1) Fish and wildlife officers (~~(and ex officio fish and wildlife~~
6 ~~officers))~~) may seize without warrant boats, airplanes, vehicles,
7 motorized implements, conveyances, gear, appliances, or other articles
8 they have probable cause to believe have been held with intent to
9 violate or used in violation of this title or rule of the commission or
10 director. However, fish and wildlife officers (~~(or ex officio fish and~~
11 ~~wildlife officers))~~) may not seize any item or article, other than for
12 evidence, if under the circumstances, it is reasonable to conclude that
13 the violation was inadvertent. The property seized is subject to
14 forfeiture to the state under this section regardless of ownership.
15 Property seized may be recovered by its owner by depositing with the
16 department or into court a cash bond or equivalent security equal to
17 the value of the seized property but not more than one hundred thousand
18 dollars. Such cash bond or security is subject to forfeiture in lieu
19 of the property. Forfeiture of property seized under this section is
20 a civil forfeiture against property and is intended to be a remedial
21 civil sanction.

22 (2) In the event of a seizure of property under this section,
23 jurisdiction to begin the forfeiture proceedings shall commence upon
24 seizure. Within fifteen days following the seizure, the seizing
25 authority shall serve a written notice of intent to forfeit property on
26 the owner of the property seized and on any person having any known
27 right or interest in the property seized. Notice may be served by any
28 method authorized by law or court rule, including service by certified
29 mail with return receipt requested. Service by mail is deemed complete
30 upon mailing within the fifteen-day period following the seizure.

31 (3) Persons claiming a right of ownership or right to possession of
32 property are entitled to a hearing to contest forfeiture. Such a claim
33 shall specify the claim of ownership or possession and shall be made in
34 writing and served on the director within forty-five days of the
35 seizure. If the seizing authority has complied with notice
36 requirements and there is no claim made within forty-five days, then
37 the property shall be forfeited to the state.

1 (4) If any person timely serves the director with a claim to
2 property, the person shall be afforded an opportunity to be heard as to
3 the person's claim or right. The hearing shall be before the director
4 or director's designee, or before an administrative law judge appointed
5 under chapter 34.12 RCW, except that a person asserting a claim or
6 right may remove the matter to a court of competent jurisdiction if the
7 aggregate value of the property seized is more than five thousand
8 dollars. The department may settle a person's claim of ownership prior
9 to the administrative hearing.

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

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

20 (b) If the property is a boat, airplane, or vehicle, that the
21 illegal use or planned illegal use of the boat, airplane, or vehicle
22 occurred without the owner's knowledge or consent, and that the owner
23 acted reasonably to prevent illegal uses of such boat, airplane, or
24 vehicle.

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

29 (7) If seized property is forfeited under this section the
30 department may retain it for official use unless the property is
31 required to be destroyed, or upon application by any law enforcement
32 agency of the state, release such property to the agency for the use of
33 enforcing this title, or sell such property, and deposit the proceeds
34 to the fish and wildlife enforcement reward account created in RCW
35 77.15.425.

36 **Sec. 27.** RCW 77.15.075 and 2009 c 204 s 1 are each amended to read
37 as follows:

1 (1) Fish and wildlife officers (~~and ex officio fish and wildlife~~
2 ~~officers shall enforce this title, rules of the department, and other~~
3 ~~statutes as prescribed by the legislature. Fish and wildlife officers~~
4 ~~who are not ex officio officers~~)) shall have and exercise, throughout
5 the state, such police powers and duties as are vested in sheriffs and
6 peace officers generally. Fish and wildlife officers are general
7 authority Washington peace officers.

8 (2) An applicant for a fish and wildlife officer position must be
9 a citizen of the United States of America who can read and write the
10 English language. (~~All fish and wildlife officers employed after June~~
11 ~~13, 2002, must successfully complete the basic law enforcement academy~~
12 ~~course, known as the basic course, sponsored by the criminal justice~~
13 ~~training commission, or the basic law enforcement equivalency~~
14 ~~certification, known as the equivalency course, provided by the~~
15 ~~criminal justice training commission. All officers employed on June~~
16 ~~13, 2002, must have successfully completed the basic course, the~~
17 ~~equivalency course, or the supplemental course in criminal law~~
18 ~~enforcement, known as the supplemental course, offered under chapter~~
19 ~~155, Laws of 1985. Any officer who has not successfully completed the~~
20 ~~basic course, the equivalency course, or the supplemental course must~~
21 ~~complete the basic course or the equivalency course within fifteen~~
22 ~~months of June 13, 2002.~~

23 ~~(2) Fish and wildlife officers are peace officers.))~~

24 (3) Any liability or claim of liability under chapter 4.92 RCW that
25 arises out of the exercise or alleged exercise of authority by a fish
26 and wildlife officer rests with the department unless the fish and
27 wildlife officer acts under the direction and control of another agency
28 or unless the liability is otherwise assumed under an agreement between
29 the department and another agency.

30 (4) (~~Fish and wildlife officers may serve and execute warrants and~~
31 ~~processes issued by the courts.~~

32 ~~(5))~~ The department may utilize the services of a volunteer
33 chaplain as provided under chapter 41.22 RCW.

34 **Sec. 28.** RCW 77.15.080 and 2002 c 281 s 8 are each amended to read
35 as follows:

36 (1) Based upon articulable facts that a person is engaged in
37 fishing, harvesting, or hunting activities, fish and wildlife officers

1 have the authority to temporarily stop the person and check for valid
2 licenses, tags, permits, stamps, or catch record cards, and to inspect
3 all fish, shellfish, seaweed, and wildlife in possession as well as the
4 equipment being used to ensure compliance with the requirements of this
5 title, and may request the person to write his or her signature for
6 comparison with the signature on the license. Failure to comply with
7 the request is prima facie evidence that the person is not the person
8 named on the license. For licenses purchased over the internet or
9 telephone, fish and wildlife officers may require the person, if age
10 eighteen or older, to exhibit a driver's license or other photo
11 identification.

12 (2) Based upon articulable facts that a person is transporting a
13 prohibited aquatic animal species or any aquatic plant, fish and
14 wildlife officers (~~and ex officio fish and wildlife officers~~) have
15 the authority to temporarily stop the person and inspect the watercraft
16 to ensure that the watercraft and associated equipment are not
17 transporting prohibited aquatic animal species or aquatic plants.

18 **Sec. 29.** RCW 77.15.085 and 2000 c 107 s 232 are each amended to
19 read as follows:

20 Fish and wildlife officers (~~and ex officio fish and wildlife~~
21 ~~officers~~) may seize without a warrant wildlife, fish, and shellfish
22 they have probable cause to believe have been taken, transported, or
23 possessed in violation of this title or rule of the commission or
24 director.

25 **Sec. 30.** RCW 77.15.092 and 2000 c 107 s 213 are each amended to
26 read as follows:

27 Fish and wildlife officers (~~and ex officio fish and wildlife~~
28 ~~officers~~) may arrest without warrant persons found violating the law
29 or rules adopted pursuant to this title.

30 **Sec. 31.** RCW 77.15.094 and 2001 c 253 s 25 are each amended to
31 read as follows:

32 Fish and wildlife officers (~~and ex officio fish and wildlife~~
33 ~~officers~~) may make a reasonable search without warrant of a vessel,
34 conveyances, vehicles, containers, packages, or other receptacles for
35 fish, seaweed, shellfish, and wildlife which they have reason to

1 believe contain evidence of a violation of law or rules adopted
2 pursuant to this title and seize evidence as needed for law
3 enforcement. This authority does not extend to quarters in a boat,
4 building, or other property used exclusively as a private domicile,
5 does not extend to transitory residences in which a person has a
6 reasonable expectation of privacy, and does not allow search and
7 seizure without a warrant if the thing or place is protected from
8 search without warrant within the meaning of Article I, section 7 of
9 the state Constitution. Seizure of property as evidence of a crime
10 does not preclude seizure of the property for forfeiture as authorized
11 by law.

12 **Sec. 32.** RCW 77.15.480 and 2001 c 253 s 42 are each amended to
13 read as follows:

14 Articles or devices unlawfully used, possessed, or maintained for
15 catching, taking, killing, attracting, or decoying wildlife, fish, and
16 shellfish are public nuisances. If necessary, fish and wildlife
17 officers (~~and ex officio fish and wildlife officers~~) may seize,
18 abate, or destroy these public nuisances without warrant or process.

19 **Sec. 33.** RCW 77.15.710 and 2000 c 107 s 257 are each amended to
20 read as follows:

21 (1) The commission shall revoke all hunting, fishing, or other
22 licenses issued under this title and order a ten-year suspension of all
23 privileges extended under the authority of the department of a person
24 convicted of assault on a fish and wildlife officer, (~~ex officio~~
25 ~~officer,~~) employee, agent, or personnel acting for the department, if
26 the employee assaulted was on duty at the time of the assault and
27 carrying out the provisions of this title. The suspension shall be
28 continued beyond this period if any damages to the victim have not been
29 paid by the suspended person.

30 (2) For the purposes of this section, the definition of assault
31 includes:

- 32 (a) RCW 9A.32.030; murder in the first degree;
- 33 (b) RCW 9A.32.050; murder in the second degree;
- 34 (c) RCW 9A.32.060; manslaughter in the first degree;
- 35 (d) RCW 9A.32.070; manslaughter in the second degree;
- 36 (e) RCW 9A.36.011; assault in the first degree;

1 (f) RCW 9A.36.021; assault in the second degree; and

2 (g) RCW 9A.36.031; assault in the third degree.

3 **Sec. 34.** RCW 77.32.014 and 2001 c 253 s 50 are each amended to
4 read as follows:

5 Licenses, tags, and stamps issued pursuant to this chapter shall be
6 revoked and the privileges suspended for any period in which a person
7 is certified by the department of social and health services or a court
8 of competent jurisdiction as a person in noncompliance with a support
9 order. Fish and wildlife officers (~~((and ex officio fish and wildlife
10 officers))~~) shall enforce this section through checks of the department
11 of licensing's computer database. A listing on the department of
12 licensing's database that an individual's license is currently
13 suspended pursuant to RCW 46.20.291(8) shall be prima facie evidence
14 that the individual is in noncompliance with a support order.
15 Presentation of a written release issued by the department of social
16 and health services stating that the person is in compliance with an
17 order shall serve as prima facie proof of compliance with a support
18 order.

19 **Sec. 35.** RCW 77.75.110 and 2000 c 107 s 222 are each amended to
20 read as follows:

21 To enforce RCW 77.75.120 and 77.75.130, courts in the counties
22 contiguous to the boundary waters(~~(7)~~) and fish and wildlife
23 officers(~~(7, ~~and ex officio fish and wildlife officers~~)~~) have
24 jurisdiction over the boundary waters to the furthestmost shoreline.
25 This jurisdiction is concurrent with the courts and law enforcement
26 officers of Idaho.

27 **Sec. 36.** RCW 77.75.120 and 2000 c 107 s 223 are each amended to
28 read as follows:

29 The taking of wildlife from the boundary waters or islands of the
30 Snake river shall be in accordance with the wildlife laws of the
31 respective states. Fish and wildlife officers (~~((and ex officio fish
32 and wildlife officers))~~) shall honor the license of either state and the
33 right of the holder to take wildlife from the boundary waters and
34 islands in accordance with the laws of the state issuing the license.

1 NEW SECTION. **Sec. 37.** (1) The department of fish and wildlife
2 must, by December 31, 2011, deliver a report to the legislature,
3 consistent with RCW 43.01.036, that identifies potential programs,
4 license fees, and mechanisms by which private, nonprofit salmon
5 enhancement organizations would be enabled to raise and control funds
6 that can be used for the salmon enhancement goals of the organizations.

7 (2) In preparing the report required by this section, the
8 department of fish and wildlife must work proactively with any
9 interested private, nonprofit salmon enhancement organizations.

10 (3) This section expires July 31, 2012.

11 NEW SECTION. **Sec. 38.** If any provision of this act or its
12 application to any person or circumstance is held invalid, the
13 remainder of the act or the application of the provision to other
14 persons or circumstances is not affected."

15 Correct the title.

EFFECT: Creates a three-member biological science review process
to review significant decisions of the department of fish and wildlife
and the fish and wildlife commission and, if appropriate, conduct a
peer review of those decisions with the appropriate scientific
community. Provides intent language stating that the biological
science review process only serves a review function and is not
responsible for balancing the fish and wildlife management mandates of
the state.

Allows a taxidermist, fur dealer, or wildlife meat cutter to record
the license number of the person delivering product as an optional
alternative to recording personal information.

Authorizes the fish and wildlife commission to use their rule-
making authority to clear up any ambiguity created by the statutory use
of common names for species and classes of species.

Directs the department of fish and wildlife to prepare a one-time
report to the legislature that identifies potential programs, license
fees, and mechanisms by which private, nonprofit salmon enhancement
organizations would be enabled to raise and control funds that can be
used for the salmon enhancement goals of the organizations.

--- END ---