

SSB 6041 - S AMD 434

By Senators Hargrove, Liiias, Pearson

ADOPTED 02/18/2014

1 Beginning on page 12, line 11, strike all of sections 5 and 6 and  
2 insert the following:

3 "Sec. 5. RCW 77.15.120 and 2000 c 107 s 236 are each amended to  
4 read as follows:

5 (1) A person is guilty of unlawful taking of endangered fish or  
6 wildlife in the second degree if:

7 (a) The person hunts for, fishes for, possesses, maliciously  
8 harasses, or kills fish or wildlife, or ((maliciously)) possesses or  
9 intentionally destroys the nests or eggs of fish or wildlife ((and));

10 (b) The fish or wildlife is designated by the commission as  
11 endangered((τ)); and

12 (c) The taking of the fish or wildlife or the destruction of the  
13 nests or eggs has not been authorized by rule of the commission.

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

16 (a) Convicted under subsection (1) of this section or convicted of  
17 any crime under this title involving the ((killing, possessing,  
18 harassing, or harming)) taking, possessing, or malicious harassment of  
19 endangered fish or wildlife; and

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

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

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

1           **Sec. 6.** RCW 77.15.130 and 2012 c 176 s 14 are each amended to read  
2 as follows:

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

5           (a) The person hunts for, fishes for, maliciously takes, harasses,  
6 or possesses (~~(, or maliciously kills protected)~~) fish or wildlife, or  
7 the person possesses or maliciously destroys the eggs or nests of  
8 (~~protected~~) fish or wildlife designated by the commission as  
9 protected, other than species designated as threatened or sensitive,  
10 and the taking has not been authorized by rule of the commission;  
11 (~~or~~)

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

15           (c)(i) The person hunts for, fishes for, intentionally takes,  
16 harasses, or possesses fish or wildlife, or the person possesses or  
17 intentionally destroys the nests or eggs of fish or wildlife designated  
18 by the commission as threatened or sensitive; and

19           (ii) The taking of the fish or wildlife, or the destruction of the  
20 nests or eggs, has not been authorized by rule of the commission.

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

22           (3) In addition to the penalties set forth in subsection (2) of  
23 this section, if a person is convicted of violating this section and  
24 the violation results in the death of protected wildlife listed in this  
25 subsection, the court shall require payment of the following amounts  
26 for each animal (~~killed~~) taken or possessed. This is a criminal  
27 wildlife penalty assessment that must be paid to the clerk of the court  
28 and distributed each month to the state treasurer for deposit in the  
29 fish and wildlife enforcement reward account created in RCW 77.15.425:

30           (a) Ferruginous hawk, two thousand dollars;

31           (b) Common loon, two thousand dollars;

32           (c) Bald eagle, two thousand dollars;

33           (d) Golden eagle, two thousand dollars; and

34           (e) Peregrine falcon, two thousand dollars.

35           (4) If two or more persons are convicted under subsection (1) of  
36 this section, and subsection (3) of this section is applicable, the  
37 criminal wildlife penalty assessment must be imposed against the  
38 persons jointly and (~~separately~~) severally.

1 (5)(a) The criminal wildlife penalty assessment under subsection  
2 (3) of this section must be imposed regardless of and in addition to  
3 any sentence, fines, or costs otherwise provided for violating any  
4 provision of this section. The criminal wildlife penalty assessment  
5 must be included by the court in any pronouncement of sentence and may  
6 not be suspended, waived, modified, or deferred in any respect.

7 (b) This subsection may not be construed to abridge or alter  
8 alternative rights of action or remedies in equity or under common law  
9 or statutory law, criminal or civil.

10 (6) A defaulted criminal wildlife penalty assessment authorized  
11 under subsection (3) of this section may be collected by any means  
12 authorized by law for the enforcement of orders of the court or  
13 collection of a fine or costs, including but not limited to vacation of  
14 a deferral of sentencing or vacation of a suspension of sentence.

15 (7) The department shall revoke the hunting license and suspend the  
16 hunting privileges of a person assessed a criminal wildlife penalty  
17 assessment under this section until the penalty assessment is paid  
18 through the registry of the court in which the penalty assessment was  
19 assessed.

20 (8) The criminal wildlife penalty assessments provided in  
21 subsection (3) of this section must be doubled in the following  
22 instances:

23 (a) When a person commits a violation that requires payment of a  
24 criminal wildlife penalty assessment within five years of a prior gross  
25 misdemeanor or felony conviction under this title; or

26 (b) When the trier of fact determines that the person ((killed))  
27 took or possessed the protected wildlife in question with the intent of  
28 bartering, selling, or otherwise deriving economic profit from the  
29 wildlife or wildlife parts."

EFFECT: Removes the clarification that only the active or  
perennial nests of protected or endangered fish and wildlife cannot be  
destroyed; changes the mens rea associated with the destruction of the  
eggs or nest of an endangered species from "knowingly" to  
"intentionally"; and removes the possession of a state or federal  
permit as a defense to the crime of unlawful taking of an endangered or

protected species.

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