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**HOUSE BILL 1434**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** Representatives Blake, Buys, Takko, Kretz, and Tharinger

AN ACT Relating to forage fish spawning habitat; adding a new section to chapter 77.55 RCW; and creating a new section.

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

NEW SECTION. **Sec.**  The legislature finds that forage fish, including herring, surf smelt, and sand lance, are important and delicate middle tiers of Washington's marine food web. The department of fish and wildlife has successfully surveyed many beaches in the state and maintains information relating to the distribution of spawning locations and the preferred spawning habitat qualities of many forage fish species. From those surveys, the characteristics of preferred spawning beaches can be identified based on factors such as sediment size, shading, and slope. This information is currently used by the department of fish and wildlife to condition hydraulic project approvals on beaches that have been surveyed. However, successful conservation of forage fish species can be more predictably achieved if the department of fish and wildlife uses information gathered from formal surveys to inform decisions relating to beaches that have not been surveyed.

NEW SECTION. **Sec.**  A new section is added to chapter 77.55 RCW to read as follows:

(1) The department may establish reasonable conditions on any permit issued under RCW 77.55.021 for the protection of forage fish spawning habitat on beaches or other portions of waters that have not been specifically surveyed by the department to be spawning habitat for forage fish if a likelihood of forage fish spawning habitat can be inferred by the department based on the presence of surveyed forage fish spawning habitat on beaches or in other waters with similar characteristics or qualities. Allowable conditions for the protection of forage fish spawning habitat include project timing, location, design, and construction methods.

(2)(a) A project applicant may, as an alternative to a condition established under this section, conduct a survey to disprove the presence of forage fish habitat at the project site. The survey must be approved by the department and funded by the project applicant.

(b) If a survey conducted under this subsection shows to the department's satisfaction that the project site does not contain forage fish habitat, then the department may not place conditions on the permit under the authority provided by this section.

(3) Any conditions established consistent with this section are considered to be reasonable under RCW 77.55.021 and 77.55.231.

(4) Nothing in this section relates to the authority to set conditions on beaches or in other waters where the department has affirmably documented forage fish spawning habitat.

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