

CERTIFICATION OF ENROLLMENT

SENATE BILL 6400

Chapter 64, Laws of 2016

64th Legislature
2016 Regular Session

FISH AND WILDLIFE--ENFORCEMENT LAWS--CLARIFICATION

EFFECTIVE DATE: 6/9/2016

Passed by the Senate February 11, 2016
Yeas 49 Nays 0

BRAD OWEN

President of the Senate

Passed by the House March 4, 2016
Yeas 97 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Approved March 29, 2016 4:19 PM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Hunter G. Goodman, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 6400** as passed by Senate and the House of Representatives on the dates hereon set forth.

HUNTER G. GOODMAN

Secretary

FILED

March 30, 2016

**Secretary of State
State of Washington**

SENATE BILL 6400

Passed Legislature - 2016 Regular Session

State of Washington

64th Legislature

2016 Regular Session

By Senators Hewitt, Hargrove, and Warnick; by request of Department of Fish and Wildlife

Read first time 01/19/16. Referred to Committee on Natural Resources & Parks.

1 AN ACT Relating to the technical changes that clarify fish and
2 wildlife enforcement laws; amending RCW 77.15.370, 77.15.400, and
3 77.15.420; and prescribing penalties.

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

5 **Sec. 1.** RCW 77.15.370 and 2014 c 48 s 13 are each amended to
6 read as follows:

7 (1) A person is guilty of unlawful recreational fishing in the
8 first degree if:

9 (a) The person takes or possesses two times or more than the bag
10 limit or possession limit of fish or shellfish allowed by any rule of
11 the director or commission setting the amount of food fish, game
12 fish, or shellfish that can be taken or possessed for noncommercial
13 use;

14 (b) The person fishes in a fishway;

15 (c) The person shoots, gaffs, snags, snares, spears, dipnets, or
16 stones fish or shellfish in state waters, or possesses fish or
17 shellfish taken by such means, unless such means are authorized by
18 express department rule;

19 (d) The person fishes for or possesses a fish listed as
20 threatened or endangered in 50 C.F.R. Sec. 223.102 (2006) or Sec.

1 224.101 (2010), unless fishing for or possessing such fish is
2 specifically allowed under federal or state law;

3 (e) The person possesses a white sturgeon measuring in excess of
4 the maximum size limit as established by rules adopted by the
5 department;

6 (f) The person possesses a green sturgeon of any size; or

7 (g)(i) The person possesses a wild salmon or wild steelhead
8 during a season closed for wild salmon or wild steelhead.

9 (ii) For the purposes of this subsection:

10 (A) "Wild salmon" means a salmon with an unclipped adipose fin,
11 regardless of whether the salmon's ventral fin is clipped. A salmon
12 is considered to have an unclipped adipose fin if it does not have a
13 healed scar at the location of the clipped adipose fin.

14 (B) "Wild steelhead" means a steelhead with no fins clipped.

15 (2) Unlawful recreational fishing in the first degree is a gross
16 misdemeanor.

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

25 (a) White sturgeon longer than fifty-five inches in fork length,
26 two thousand dollars;

27 (b) Green sturgeon, two thousand dollars; and

28 (c) Wild salmon or wild steelhead, five hundred dollars.

29 (4) If two or more persons are convicted under subsection (1) of
30 this section, and subsection (3) of this section is applicable, the
31 criminal wildlife penalty assessment must be imposed against the
32 persons jointly and severally.

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

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

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

9 (7) The department shall revoke the fishing license and suspend
10 the fishing privileges of a person assessed a criminal wildlife
11 penalty assessment under this section until the penalty assessment is
12 paid through the registry of the court in which the penalty
13 assessment was assessed.

14 (8) The criminal wildlife penalty assessments provided in
15 subsection (3) of this section must be doubled in the following
16 instances:

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

20 (b) When the trier of fact determines that the person took or
21 possessed the fish in question with the intent of bartering, selling,
22 or otherwise deriving economic profit from the fish or fish parts.

23 **Sec. 2.** RCW 77.15.400 and 2012 c 176 s 25 are each amended to
24 read as follows:

25 (1) A person is guilty of unlawful hunting of wild birds in the
26 second degree if the person hunts for wild birds and, whether or not
27 the person possesses wild birds, the person has not purchased the
28 appropriate hunting license, tags, stamps, and permits issued to
29 Washington residents or nonresidents under chapter 77.32 RCW.

30 (2) A person is guilty of unlawful hunting of wild birds in the
31 second degree if the person takes or possesses less than two times
32 the bag or possession limit of wild birds and the person:

33 (a) Owns, but does not have in the person's possession, all
34 licenses, tags, stamps, and permits required under this title; or

35 (b) Violates any department rule regarding seasons, bag or
36 possession limits, closed areas, closed times, or the manner or
37 method of hunting or possession of wild birds.

38 (3) A person is guilty of unlawful hunting of wild birds in the
39 first degree if the person takes or possesses two times or more than

1 the possession or bag limit for wild birds allowed by department
2 rule.

3 (4)(a) Unlawful hunting of wild birds in the second degree is a
4 misdemeanor.

5 (b) Unlawful hunting of wild birds in the first degree is a gross
6 misdemeanor.

7 (5) In addition to the penalties set forth in this section, if a
8 person, other than a youth as defined in RCW 77.08.010 for hunting
9 purposes, violates a department rule that requires the use of
10 nontoxic shot, upon conviction:

11 (a) The court shall require a payment of one thousand dollars as
12 a criminal wildlife penalty assessment that must be paid to the clerk
13 of the court and distributed to the state treasurer for deposit in
14 the fish and wildlife enforcement reward account created in RCW
15 77.15.425. The criminal wildlife penalty assessment must be imposed
16 regardless of and in addition to any sentence, fine, or costs imposed
17 for violating this section. The criminal wildlife penalty assessment
18 must be included by the court in any pronouncement of sentence and
19 may not be suspended, waived, modified, or deferred in any respect;
20 and

21 (b) The department shall revoke the hunting license of the person
22 and order a suspension of small game hunting privileges for two
23 years.

24 **Sec. 3.** RCW 77.15.420 and 2015 c 265 s 38 are each amended to
25 read as follows:

26 (1) If an adult offender is convicted of violating RCW 77.15.410
27 and that violation results in the death of wildlife listed in this
28 section, the court shall require payment of the following amounts for
29 each animal taken or possessed. This shall be a criminal wildlife
30 penalty assessment that shall be paid to the clerk of the court and
31 distributed each month to the state treasurer for deposit in the fish
32 and wildlife enforcement reward account created in RCW 77.15.425.

1	(a) Moose, mountain sheep, mountain	
2	goat, and all wildlife species	
3	classified as endangered by	
4	rule of the commission, except	
5	for mountain caribou and	
6	grizzly bear as listed under (d)	
7	of this subsection.	\$4,000
8	(b) Elk, deer, black bear, and cougar. .	\$2,000
9	(c) Trophy animal elk and deer.	\$6,000
10	(d) Mountain caribou, grizzly bear, and	
11	trophy animal mountain	
12	sheep.	\$12,000

13 (2)(a) For the purpose of this section a "trophy animal" is:

14 (i) A buck deer with four or more antler points on both sides,
15 not including eyeguards;

16 (ii) A bull elk with five or more antler points on both sides,
17 not including eyeguards; or

18 (iii) A mountain sheep with a horn curl of three-quarter curl or
19 greater.

20 (b) For purposes of this subsection, "eyeguard" means an antler
21 protrusion on the main beam of the antler closest to the eye of the
22 animal.

23 (3) If two or more persons are convicted of illegally possessing
24 wildlife in subsection (1) of this section, the criminal wildlife
25 penalty assessment shall be imposed on them jointly and severally.

26 (4) The criminal wildlife penalty assessment shall be imposed
27 regardless of and in addition to any sentence, fines, or costs
28 otherwise provided for violating any provision of this title. The
29 criminal wildlife penalty assessment shall be included by the court
30 in any pronouncement of sentence and may not be suspended, waived,
31 modified, or deferred in any respect. This section may not be
32 construed to abridge or alter alternative rights of action or
33 remedies in equity or under common law or statutory law, criminal or
34 civil.

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

1 (6) A person assessed a criminal wildlife penalty assessment
2 under this section shall have his or her hunting license revoked and
3 all hunting privileges suspended until the penalty assessment is paid
4 through the registry of the court in which the penalty assessment was
5 assessed. This revocation and suspension is in addition to and runs
6 concurrently with any revocation and suspension required by law.

7 (7) The criminal wildlife penalty assessments provided in
8 subsection (1) of this section shall be doubled in the following
9 instances:

10 (a) When a person is convicted of spotlighting big game under RCW
11 77.15.450;

12 (b) When a person commits a violation that requires payment of a
13 wildlife penalty assessment within five years of a prior gross
14 misdemeanor or felony conviction under this title;

15 (c) When the trier of fact determines that the person took or
16 possessed the animal in question with the intent of bartering,
17 selling, or otherwise deriving economic profit from the animal or the
18 animal's parts; or

19 (d) When the trier of fact determines that the person took the
20 animal under the supervision of a licensed guide.

Passed by the Senate February 11, 2016.

Passed by the House March 4, 2016.

Approved by the Governor March 29, 2016.

Filed in Office of Secretary of State March 30, 2016.