

# HOUSE BILL REPORT

## ESHB 2571

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**As Passed House:**  
February 16, 2020

**Title:** An act relating to increased deterrence and meaningful enforcement of fish and wildlife violations.

**Brief Description:** Concerning increased deterrence and meaningful enforcement of fish and wildlife violations.

**Sponsors:** House Committee on Civil Rights & Judiciary (originally sponsored by Representatives Goodman, Klippert and Ormsby; by request of Department of Fish and Wildlife).

**Brief History:**

**Committee Activity:**

Civil Rights & Judiciary: 1/28/20, 2/5/20 [DPS].

**Floor Activity:**

Passed House: 2/16/20, 95-0.

**Brief Summary of Engrossed Substitute Bill**

- Allows for the safe disposal or release to the environment of seized fish, shellfish, and wildlife by fish and wildlife officers under certain circumstances.
- Provides additional direction regarding the forfeiture of seized fish, shellfish, and wildlife based on case disposition.
- Reorganizes and reclassifies certain fish and wildlife violations and adds additional violations which may be cited as infractions.
- Modifies license suspension timeframes for repeated fish and wildlife violations.
- Allows the Department of Fish and Wildlife to hire lawful permanent residents as enforcement officers.

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**HOUSE COMMITTEE ON CIVIL RIGHTS & JUDICIARY**

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Kilduff, Chair; Thai, Vice Chair; Dufault, Assistant Ranking Minority Member; Goodman, Hansen, Kirby, Klippert, Orwall, Peterson, Rude, Valdez, Walen and Ybarra.

**Staff:** Ingrid Lewis (786-7289).

### **Background:**

#### Department of Fish and Wildlife Enforcement Officers.

The Department of Fish and Wildlife (WDFW) is responsible for the management of the state's fish and wildlife resources and establishes basic rules and regulations governing the time, place, manner, and methods used to harvest or enjoy fish and wildlife.

Department of Fish and Wildlife enforcement officers are general authority peace officers and have the authority to enforce all criminal laws and primary responsibility for enforcing the Fish and Wildlife Code.

An applicant to become a WDFW enforcement officer must be a United States citizen.

#### Seizure and Forfeiture.

Upon the seizure of commercially taken or possessed fish or shellfish, a fish and wildlife officer may sell the product to a wholesale buyer and deposit the proceeds in the fish and wildlife enforcement reward account. Seized, recreationally taken or possessed fish, shellfish, and wildlife may be donated to a qualifying nonprofit charitable organization.

Fish and wildlife officers may also dispose of any seized covered animal species part or product by way of donation to a bona fide educational or scientific institution solely for the purposes of raising awareness of the trafficking and threatened nature of endangered animals.

Seized fish, shellfish, wildlife, or any covered animal species part or product is forfeited to the state upon conviction or any other criminal court outcome that allows the defendant to voluntarily enter into a disposition that continues or defers the case for dismissal. For all other types of dispositions, the WDFW must either return the seized fish or wildlife or return the value of the fish or wildlife if it has been donated or sold.

#### Infractions.

Violations of the Fish and Wildlife Code are assigned various penalty classifications: infractions, misdemeanors, gross misdemeanors, or felonies. A natural resource infraction is a noncriminal offense for which a fine may be imposed. Unless specifically authorized by statute, the fine for an infraction may not exceed \$500.

#### Revocation and Suspension.

The WDFW may permanently suspend a person's recreational hunting and fishing privileges under certain conditions if the WDFW finds a willful and wanton disregard for conservation of fish and wildlife. The WDFW must suspend a person's recreational hunting and fishing privileges for two years if a person is convicted of an infraction twice within 10 years for

violating rules involving big game or violates recreational hunting or fishing laws three or more times in a 10-year period.

### **Summary of Engrossed Substitute Bill:**

#### Seizure and Forfeiture.

A provision is added to allow fish and wildlife officers to safely dispose of or release to the environment, seized fish, shellfish, and wildlife if the items are not needed for exculpatory value and storage is not practicable under the circumstances.

Additional case dispositions are added to allow for forfeiture of seized fish, shellfish, wildlife, or any covered animal species part or product to include:

- a finding of guilt or plea of guilty pursuant to an amended information;
- any infraction adjudicated under fish and wildlife laws with a final disposition of committed, paid, or uncontested; or
- any case where the offender enters into a disposition that continues or defers the case for dismissal upon the completion of specific terms or conditions.

For findings of not guilty, not committed, or dismissal with prejudice due to a failure of proof or violation of law, the fish, shellfish, and wildlife or its equivalent value may be returned. If a case is dismissed without prejudice and is subject to being refiled, the seized fish, shellfish, or wildlife need not be returned until the statute of limitations for the violation has expired.

#### Infractions.

Certain violations of the Fish and Wildlife Code are reorganized and reclassified as infractions. Additional violations of the Code may be cited as natural resource infractions, including failing to return a catch record card for Puget Sound Dungeness crab; not possessing a required license; and violating the terms of certain permits issued by the Department of Fish and Wildlife (WDFW). Civil provisions are cumulative and nonexclusive and do not affect any criminal prosecution or investigatory authority over criminal offenses.

In a natural resource infraction proceeding, the attorney representing the state or local government entity may appear but does not need to appear.

#### Revocation and Suspension.

The WDFW must permanently suspend a person's recreational hunting and fishing privileges in certain circumstances, if the WDFW finds that the person demonstrated a willful or wanton disregard for conservation of fish and wildlife.

The suspension period for violating rules involving big game or recreational hunting or fishing laws within a 10-year period is modified from two years to at least two years and up to 10 years.

#### Department of Fish and Wildlife Enforcement Officers.

Applicants to become a fish and wildlife officer may be lawful permanent residents.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) Department of Fish and Wildlife (WDFW) officers are general authority peace officers. Officers are deployed throughout the state to enforce laws pertaining to health and public safety, dangerous wildlife and human conflict, hunting and fishing, and commercial fish and shellfish harvest. There are approximately 150 commissioned staff throughout the state.

The bill changes the fish and wildlife enforcement code to establish more meaningful deterrents for fish and wildlife violations and provide better outcomes in courts for adjudication of those violations.

Current law precludes an officer from issuing an infraction for many low-level fishing and hunting violations. In 2010 the Washington Supreme Court removed bail forfeiture as a method for individuals charged with a misdemeanor crime to complete the citation process. At that time a large percentage of fish and wildlife violations were misdemeanors, and bail forfeiture was used as a method to address violations. The loss of this option resulted in individuals cited for misdemeanors having to appear in court for any charged crime. Individuals travel a long way to enjoy fish and wildlife resources, and they are now required to travel back to those jurisdictions to resolve minor violations. The increase in in-person appearances increased district court prosecutor caseloads for victimless violations. In addition, a misdemeanor outcome is not proportional to minor possession violations.

This bill gives an officer the discretion to issue an infraction instead of having an individual charged with a misdemeanor for a low level violation, like going over the razor clam digging limit. These infractions should be handled in a manner similar to traffic infractions. The bill would also allow fish and wildlife infractions to be handled by the courts without the need for a city or county prosecutor to be present and would allow for lawful permanent residents to serve as WDFW officers.

(Opposed) None.

**Persons Testifying:** Representative Goodman, prime sponsor; and Tom McBride and Jeff Wickersham, Washington Department of Fish and Wildlife.

**Persons Signed In To Testify But Not Testifying:** None.