

# SENATE BILL REPORT

## SB 6071

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As of January 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:** Senators Van De Wege, Warnick and Lovelett; by request of Department of Fish and Wildlife.

**Brief History:**

**Committee Activity:** Agriculture, Water, Natural Resources & Parks: 1/14/20.

**Brief Summary of Bill**

- Adds additional violations and reorganizes existing violations of Washington Department of Fish and Wildlife (WDFW) rules subject to civil penalties as a natural resource infraction.
- Modifies the process for managing fish, shellfish, and wildlife seized during enforcement actions.
- Allows WDFW to hire lawful permanent residents as enforcement officers.

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**SENATE COMMITTEE ON AGRICULTURE, WATER, NATURAL RESOURCES & PARKS**

**Staff:** Jeff Olsen (786-7428)

**Background:** The fish and wildlife code contains a number of unlawful acts that are defined as criminal violations of hunting, fishing, and other wildlife related activities. Certain violations are punishable as criminal offenses, and there are also violations that may be cited and punished as a natural resource infraction. A natural resource infraction is a civil penalty for violations of certain statutes relating to natural resources, including the fish and wildlife code. The monetary penalty for a natural resource infraction is set by the Supreme Court, with a minimum fine of \$10 and a maximum fine of \$500.

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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.*

Fish, shellfish, and wildlife taken or possessed in violation of fish and wildlife laws is forfeited to the state upon conviction or any outcome in criminal court where a person voluntarily enters into a disposition that continues or defers the case for dismissal. For cases resulting in other types of dispositions, the fish, shellfish and wildlife or its equivalent value may be returned.

WDFW may permanently suspend a person's recreational hunting and fishing privileges under certain conditions if WDFW finds a willful and wanton disregard for conservation of fish and wildlife. WDFW must suspend a person's recreational hunting and fishing privileges if a person is convicted of an infraction twice within ten years for violating rules involving big game, or violates recreational hunting or fishing laws three or more times in a ten-year period.

WDFW enforcement officers are general authority peace officers, and an applicant to become a fish and wildlife officer must be a citizen of the United States.

**Summary of Bill:** The bill as referred to committee not considered.

**Summary of Bill (Proposed Substitute):** Certain additional violations of the Fish and Wildlife code may be cited as natural resource infractions. Examples include 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 WDFW. The civil provisions are cumulative and nonexclusive and do not affect any criminal prosecution or investigatory authority over criminal offenses. The attorney representing the state or local government entity may appear, but does not need to appear, in the natural resource infraction proceeding.

After the evidentiary value has been preserved, seized fish, shellfish, and wildlife may be safely disposed of if it is not needed for exculpatory value and storage is not practical. Fish, shellfish, and wildlife taken or possessed in violation of state fish and wildlife laws is forfeited to the state in the following circumstances:

- a finding of guilt or plea of guilty 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 without 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.

WDFW must suspend a person's recreational hunting and fishing privileges under certain conditions if WDFW finds a willful and wanton disregard for conservation of fish and wildlife. If a person is convicted of an infraction twice within ten years for violating rules involving big game or violates recreational hunting or fishing laws three or more times in a

ten-year period, their hunting and fishing privileges must be suspended at least two years and may be suspended up to ten years.

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

**Appropriation:** None.

**Fiscal Note:** Requested on January 10, 2020.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: The WDFW employs approximately 150 commissioned officers that are general law enforcement officers and perform a variety of enforcement activities, including enforcing the state's fish and wildlife laws. Similar to other law enforcement agencies in Washington, WDFW would be able to hire lawful permanent residents to be law enforcement officers. There are changes made to improve the way the WDFW handles seized fish and wildlife, including not having to return or pay an offender for illegally harvested fish and wildlife. By adding additional civil infractions to the fish and wildlife code, especially for a violation that is currently a misdemeanor, it allows for more meaningful deterrence. Similar to when many traffic violations were criminal infractions that are now subject to fines, WDFW officers could issue a ticket versus a criminal offense.

**Persons Testifying:** PRO: Tom McBride, WDFW; Captain Jeff Wickersham, WDFW.

**Persons Signed In To Testify But Not Testifying:** No one.