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ENGROSSED SUBSTITUTE HOUSE BILL 2571

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State of Washington

66th Legislature

2020 Regular Session

By House Civil Rights & Judiciary (originally sponsored by Representatives Goodman, Klippert, and Ormsby; by request of Department of Fish and Wildlife)

READ FIRST TIME 02/07/20.

1 AN ACT Relating to increased deterrence and meaningful  
2 enforcement of fish and wildlife violations; amending RCW 77.15.075,  
3 77.15.100, 77.15.700, and 7.84.070; reenacting and amending RCW  
4 77.15.160; and prescribing penalties.

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

6 **Sec. 1.** RCW 77.15.075 and 2012 c 176 s 8 are each amended to  
7 read as follows:

8 (1) Fish and wildlife officers shall have and exercise,  
9 throughout the state, such police powers and duties as are vested in  
10 sheriffs and peace officers generally. Fish and wildlife officers are  
11 general authority Washington peace officers.

12 (2) An applicant for a fish and wildlife officer position must be  
13 a citizen of the United States of America or a lawful permanent  
14 resident who can read and write the English language. Before a person  
15 may be appointed to act as a fish and wildlife officer, the person  
16 shall meet the minimum standards for employment with the department,  
17 including successful completion of a psychological examination and  
18 polygraph examination or similar assessment procedure administered in  
19 accordance with the requirements of RCW 43.101.095(2).

20 (3) Any liability or claim of liability under chapter 4.92 RCW  
21 that arises out of the exercise or alleged exercise of authority by a

1 fish and wildlife officer rests with the department unless the fish  
2 and wildlife officer acts under the direction and control of another  
3 agency or unless the liability is otherwise assumed under an  
4 agreement between the department and another agency.

5 (4) The department may utilize the services of a volunteer  
6 chaplain as provided under chapter 41.22 RCW.

7 **Sec. 2.** RCW 77.15.100 and 2016 c 2 s 5 are each amended to read  
8 as follows:

9 (1) Fish, shellfish, and wildlife are property of the state under  
10 RCW 77.04.012. Fish and wildlife officers may sell seized,  
11 commercially taken or possessed fish and shellfish to a wholesale  
12 buyer and deposit the proceeds into the fish and wildlife enforcement  
13 reward account under RCW 77.15.425. Seized, recreationally taken or  
14 possessed fish, shellfish, and wildlife may be donated to nonprofit  
15 charitable organizations. The charitable organization must qualify  
16 for tax-exempt status under 26 U.S.C. Sec. 501(c)(3) of the federal  
17 internal revenue code. Seized fish, shellfish, and wildlife may be  
18 returned to the environment or otherwise safely disposed of if  
19 storage is not practical under the circumstances, after the  
20 evidentiary value of the seized fish, shellfish, or wildlife has been  
21 preserved through photographs, measurements, biological samples, or  
22 other reasonable means. If an exculpatory value is clearly apparent  
23 in the seized fish, shellfish, or wildlife, and the exculpatory value  
24 is not otherwise reasonably obtainable, the fish, shellfish, or  
25 wildlife should be retained.

26 (2) Fish and wildlife officers may dispose of any covered animal  
27 species part or product seized through the enforcement of RCW  
28 77.15.135 through a donation to a bona fide educational or scientific  
29 institution, solely for the purposes of raising awareness of the  
30 trafficking and threatened nature of endangered animals, as allowed  
31 under state, federal, and international law.

32 (3) Unless otherwise provided in this title, fish, shellfish,  
33 wildlife, or any covered animal species part or product taken or  
34 possessed in violation of this title or department rule shall be  
35 forfeited to the state upon:

36 (a) Conviction ((or any outcome in criminal court whereby a  
37 person voluntarily enters into a disposition that continues or defers  
38 the case for dismissal upon the successful completion of specific  
39 terms or conditions)) as defined in RCW 77.15.050;

1 (b) A finding of guilt or plea of guilty pursuant to an amended  
2 information for any violation that was originally charged as a  
3 violation of this title or department rule regardless of whether the  
4 imposition of sentence is deferred or the penalty is suspended;

5 (c) Any infraction adjudicated under this title, department rule,  
6 or chapter 7.84 RCW with a final disposition of committed, paid, or  
7 uncontested, regardless of whether the violation was originally  
8 charged as a criminal offense and regardless of whether the penalty  
9 is suspended or deferred; or

10 (d) Any disposition of a case arising from an act originally  
11 charged as a violation of this title or department rule, or an  
12 infraction cited or referred as a violation of this title, department  
13 rule, or chapter 7.84 RCW, whereby the offender enters into a  
14 disposition that continues or defers the case for dismissal upon the  
15 successful completion of specific terms or conditions. For  
16 ((criminal)) cases resulting in other types of dispositions that are  
17 not defined in RCW 77.15.050, including findings of not guilty, not  
18 committed, or dismissal with prejudice due to a failure of proof or  
19 violation of law, the fish, shellfish, wildlife, or covered animal  
20 species part or product may be returned, or its equivalent value  
21 paid, if the fish, shellfish, wildlife, or covered animal species  
22 part or product have already been donated or sold. If a case is  
23 dismissed without prejudice and is subject to being refiled, the  
24 seized fish, shellfish, wildlife, or covered animal species part or  
25 product need not be returned until the statute of limitations for the  
26 violation has expired. Nothing in this section prevents the seizing  
27 authority from pursuing forfeiture under RCW 77.15.070 or any other  
28 statute or rule.

29 **Sec. 3.** RCW 77.15.160 and 2017 3rd sp.s. c 17 s 303 and 2017 3rd  
30 sp.s. c 8 s 42 are each reenacted and amended to read as follows:

31 The following acts are infractions and ~~((must))~~ may be cited and  
32 ~~((punished))~~ civil penalties imposed as provided under chapter 7.84  
33 RCW, to include detentions for a reasonable period and investigations  
34 as provided in RCW 7.84.030. The civil provisions of this section are  
35 cumulative and nonexclusive and do not affect any criminal  
36 prosecution or investigatory authority over criminal offenses:

37 (1) Fishing and shellfishing infractions:

38 (a) Barbed hooks: Fishing for personal use with barbed hooks in  
39 violation of any department rule.

1 (b) Catch recording: Failing to immediately record a catch of  
2 fish or shellfish on a catch record card as required by RCW 77.32.430  
3 or department rule.

4 (c) Catch reporting: Failing to return a catch record card to the  
5 department (~~((for other than Puget Sound Dungeness crab,))~~) as required  
6 by department rule.

7 (d) Recreational fishing: Fishing for fish or shellfish and(~~(7~~  
8 ~~without yet possessing fish or shellfish,))~~) the person:

9 (i) (~~(Owns, but)~~) Fails to have in the person's possession the  
10 license or the catch record card required by chapter 77.32 RCW for  
11 such an activity; or

12 (ii) Violates any department rule regarding seasons, closed  
13 areas, closed times, or any other rule addressing the manner or  
14 method of fishing for fish or shellfish and the violation involves:

15 (A) Salmon or steelhead;

16 (B) Sturgeon;

17 (C) Game fish;

18 (D) Food fish;

19 (E) Shellfish;

20 (F) Unclassified fish or shellfish;

21 (G) Waste of food fish, game fish or shellfish. This subsection  
22 (1)(d)(ii) does not apply to use of a net to take fish under RCW  
23 77.15.580 (~~((or the unlawful use of shellfish gear for personal use~~  
24 ~~under RCW 77.15.382))~~) or unlawful recreational fishing in the first  
25 degree under RCW 77.15.370.

26 (e) Seaweed: Taking, possessing, or harvesting less than two  
27 times the daily possession limit of seaweed:

28 (i) While (~~(owning, but not having in the person's possession,))~~)  
29 the person is not in possession of the license required by chapter  
30 77.32 RCW; or

31 (ii) In violation of any rule of the department or the department  
32 of natural resources regarding seasons, closed areas, closed times,  
33 or any other rule addressing the manner or method of taking,  
34 possessing, or harvesting of seaweed.

35 (~~((f) Unclassified fish or shellfish: Taking unclassified fish or~~  
36 ~~shellfish in violation of any department rule by killing, fishing,~~  
37 ~~taking, holding, possessing, or maliciously injuring or harming fish~~  
38 ~~or shellfish that is not classified as game fish, food fish,~~  
39 ~~shellfish, protected fish, or endangered fish.~~)

1 ~~(g) Wasting fish or shellfish: Killing, taking, or possessing~~  
2 ~~fish or shellfish having a value of less than two hundred fifty~~  
3 ~~dollars and allowing the fish or shellfish to be wasted.))~~

4 (2) Hunting infractions:

5 (a) A person engages in an activity defined by chapter 77.32 RCW  
6 while not having in the person's possession or having failed to  
7 purchase the hunting license or tag required by that chapter, not  
8 including big game.

9 (b) Eggs or nests: Maliciously, and without permit authorization,  
10 destroying, taking, or harming the eggs or active nests of a wild  
11 bird not classified as endangered or protected. For purposes of this  
12 subsection, "active nests" means nests that contain eggs or  
13 fledglings.

14 ~~((b) Unclassified wildlife: Taking unclassified wildlife in~~  
15 ~~violation of any department rule by killing, hunting, taking,~~  
16 ~~holding, possessing, or maliciously injuring or harming wildlife that~~  
17 ~~is not classified as big game, game animals, game birds, protected~~  
18 ~~wildlife, or endangered wildlife.~~

19 (c) ~~Wasting wildlife: Killing, taking, or possessing wildlife~~  
20 ~~that is not classified as big game and has a value of less than two~~  
21 ~~hundred fifty dollars, and allowing the wildlife to be wasted.~~

22 (d) ~~Wild animals: Hunting for wild animals not classified as big~~  
23 ~~game and, without yet possessing the wild animals, the person owns,~~  
24 ~~but fails to have in the person's possession, all licenses, tags, or~~  
25 ~~permits required by this title.~~

26 (e) ~~Wild birds: Hunting for and, without yet possessing a wild~~  
27 ~~bird or birds, the person:~~

28 (i) ~~Owns, but fails to have in the person's possession, all~~  
29 ~~licenses, tags, stamps, and permits required under this title; or~~

30 (ii) ~~Violates any department rule regarding seasons, closed~~  
31 ~~areas, closed times, or any other rule addressing the manner or~~  
32 ~~method of hunting wild birds.))~~ (c) Hunting for wildlife not

33 classified as big game and the person violates any department rule  
34 regarding seasons, closed areas, closed times, or any other rule  
35 defining the method or manner of hunting or taking wildlife and the  
36 violation involves:

37 (i) Unclassified wildlife;

38 (ii) Small game;

39 (iii) Furbearers;

40 (iv) Game birds;

1 (v) Wild birds;

2 (vi) Wild animals;

3 (vii) Waste of small game.

4 (3) Trapping, taxidermy, fur dealing, and wildlife meat cutting  
5 infractions:

6 (a) Recordkeeping and reporting: If a person is a taxidermist,  
7 fur dealer, or wildlife meat cutter who is processing, holding, or  
8 storing wildlife for commercial purposes, failing to:

9 (i) Maintain records as required by department rule; or

10 (ii) Report information from these records as required by  
11 department rule.

12 (b) Trapper's report: Failing to report trapping activity as  
13 required by department rule.

14 (4) Limited fish seller infraction: Failure of a holder of a  
15 limited fish seller endorsement to satisfy the food safety  
16 requirements to consumers under RCW 77.65.510(2).

17 (5)(a) Invasive species management infractions:

18 (i) Out-of-state certification: Entering Washington in possession  
19 of an aquatic conveyance that does not meet certificate of inspection  
20 requirements as provided under RCW 77.135.100;

21 (ii) Clean and drain requirements: Possessing an aquatic  
22 conveyance that does not meet clean and drain requirements under RCW  
23 77.135.110;

24 (iii) Clean and drain orders: Possessing an aquatic conveyance  
25 and failing to obey a clean and drain order under RCW 77.135.110 or  
26 77.135.120; and

27 (iv) Aquatic invasive species prevention permit requirements:  
28 Failing to possess a valid aquatic invasive species prevention permit  
29 as required under RCW 77.135.210, 77.135.220, or 77.135.230.

30 (b) Unless the context clearly requires otherwise, the  
31 definitions in both RCW 77.08.010 and 77.135.010 apply throughout  
32 this subsection (5).

33 (6) Other infractions:

34 (a) Contests: Unlawfully conducting, holding, or sponsoring a  
35 hunting contest, a fishing contest involving game fish, or a  
36 competitive field trial using live wildlife.

37 (b) Other rules: Violating any other department rule that is  
38 designated by rule as an infraction.

39 (c) Posting signs: Posting signs preventing hunting or fishing on  
40 any land not owned or leased by the person doing the posting, or

1 without the permission of the person who owns, leases, or controls  
2 the land posted.

3 (d) (~~Scientific~~) Department permits: (~~Using a scientific~~  
4 ~~permit issued by the director for fish, shellfish, or wildlife, but~~  
5 ~~not including big game or big game parts~~) Except as provided in RCW  
6 77.15.750, using a department permit issued by the department, and  
7 the person:

8 (i) Violates any terms or conditions of the (~~scientific~~)  
9 permit; (~~or~~)

10 (ii) Violates any department rule applicable to the issuance or  
11 use of (~~scientific~~) permits; or

12 (iii) Violates any commercial use or activity permits,  
13 noncommercial use or activity permits, or parking permits.

14 (e) This subsection does not apply to discover pass, vehicle  
15 access pass, or day-use permit requirements or penalties pursuant to  
16 RCW 79A.80.080.

17 **Sec. 4.** RCW 77.15.700 and 2012 c 176 s 35 are each amended to  
18 read as follows:

19 (1) The department shall revoke a person's recreational license  
20 or licenses and suspend a person's recreational license privileges in  
21 the following circumstances:

22 (a) Upon conviction, if directed by statute for an offense.

23 (b) Upon conviction, failure to appear at a hearing to contest an  
24 infraction or criminal charge, or an unvacated payment of a fine or a  
25 finding of committed as a final disposition for any infraction, if  
26 the department finds that actions of the defendant demonstrated a  
27 willful or wanton disregard for conservation of fish or wildlife.  
28 Suspension of privileges under this subsection (~~may be~~) is  
29 permanent.

30 (c) If a person is convicted, fails to appear at a hearing to  
31 contest an infraction or criminal citation, or has an unvacated  
32 payment of a fine or a finding of committed as a final disposition  
33 for any infraction, twice within ten years for a violation involving  
34 unlawful hunting, killing, or possessing big game. Revocation and  
35 suspension under this subsection must be ordered for all hunting  
36 privileges for at least two years and up to ten years.

37 (d) If a person violates, three times or more in a ten-year  
38 period, recreational hunting or fishing laws or rules for which the  
39 person: (i) Is convicted of an offense; (ii) has an unvacated payment

1 of a fine or a finding of committed as a final disposition for any  
2 infraction; or (iii) fails to appear at a hearing to contest an  
3 infraction or a criminal citation. Revocation and suspension under  
4 this subsection must be ordered of all recreational hunting and  
5 fishing privileges for at least two years and up to ten years.

6 (2) (a) A violation punishable as an infraction counts towards the  
7 revocation and suspension of recreational hunting and fishing  
8 privileges under this section if that violation is:

9 (i) Punishable as a crime on July 24, 2005, and is subsequently  
10 decriminalized; or

11 (ii) One of the following violations, as they exist on July 24,  
12 2005: RCW 77.15.160; WAC 220-56-116; WAC 220-56-315(11); or WAC  
13 220-56-355 (1) through (4).

14 (b) The commission may, by rule, designate infractions that do  
15 not count towards the revocation and suspension of recreational  
16 hunting and fishing privileges.

17 (3) If either the deferred education licensee or the required  
18 nondeferred accompanying person, hunting under the authority of RCW  
19 77.32.155(2), is convicted of a violation of this title, fails to  
20 appear at a hearing to contest a fish and wildlife infraction or a  
21 criminal citation, or has an unvacated payment of a fine or a finding  
22 of committed as a final disposition for any fish and wildlife  
23 infraction, except for a violation of RCW 77.15.400 (1) through (4),  
24 the department may revoke all hunting licenses and tags and may order  
25 a suspension of either or both the deferred education licensee's and  
26 the nondeferred accompanying person's hunting privileges for one  
27 year.

28 (4) A person who has a recreational license revoked and  
29 privileges suspended under this section may file an appeal with the  
30 department pursuant to chapter 34.05 RCW. An appeal must be filed  
31 within twenty days of notice of license revocation and privilege  
32 suspension. If an appeal is filed, the revocation and suspension  
33 issued by the department do not take effect until twenty-one days  
34 after the department has delivered an opinion. If no appeal is filed  
35 within twenty days of notice of license revocation and suspension,  
36 the right to an appeal is waived, and the revocation and suspension  
37 take effect twenty-one days following the notice of revocation and  
38 suspension.



1           (5) A recreational license revoked and privilege suspended under  
2 this section is in addition to the statutory penalties assigned to  
3 the underlying violation.

4           **Sec. 5.** RCW 7.84.070 and 1987 c 380 s 7 are each amended to read  
5 as follows:

6           (1) Procedures for the conduct of all hearings provided for in  
7 this chapter may be established by rule of the supreme court.

8           (2) Any person subject to proceedings under this chapter may be  
9 represented by counsel.

10           (3) The attorney representing the state, county, city, town, or  
11 agency authorized to issue an infraction as defined in RCW 7.84.020  
12 may appear in any proceedings under this chapter but need not appear,  
13 notwithstanding any statute or rule of court to the contrary.

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