

# HOUSE BILL REPORT

## SHB 2293

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### As Passed Legislature

**Title:** An act relating to studying the effects of avian predation of salmon.

**Brief Description:** Studying the effects of avian predation of salmon.

**Sponsors:** House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Wilcox, Chapman, Kretz, Dent, Barkis and Barnard).

#### **Brief History:**

##### **Committee Activity:**

Agriculture & Natural Resources: 1/23/24, 1/30/24 [DPS].

##### **Floor Activity:**

Passed House: 2/12/24, 97-0.

Passed Senate: 2/23/24, 47-0.

Passed Legislature.

#### **Brief Summary of Substitute Bill**

- Creates an Avian Salmon Predation Work Group.

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### HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Chapman, Chair; Morgan, Vice Chair; Reeves, Vice Chair; Dent, Ranking Minority Member; Chandler, Assistant Ranking Minority Member; Kloba, Kretz, Lekanoff, Orcutt, Schmick and Springer.

**Staff:** Zachary Blinkinsop (786-7296) and Rebecca Lewis (786-7339).

#### **Background:**

Department of Fish and Wildlife.

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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 part of the legislation nor does it constitute a statement of legislative intent.*

The Department of Fish and Wildlife (DFW) is tasked with preserving, protecting, perpetuating, and managing the state's fish, wildlife, and ecosystems. It also ensures that fish and wildlife stocks are sustainable for recreational and commercial fishers and hunters.

The DFW must authorize any agency action that would handle, kill, or collect wildlife of the state. This applies to all wildlife, including birds, amphibians, reptiles, invertebrates, and mammals.

#### Federal Laws Pertaining to Wildlife Management.

##### *Endangered Species Act*

The Endangered Species Act (ESA), administered by the United States Fish and Wildlife Service (USFWS) and the National Marine Fisheries Service (NMFS), regulates protections for threatened and endangered species. The USFWS is primarily responsible for terrestrial and freshwater species, while the NMFS is primarily responsible for marine wildlife and anadromous fish. If a project affects a species proposed for inclusion or listed in the ESA, an agency must obtain a Letter of Concurrence, Biological Opinion, or Programmatic Consistency Finding from the USFWS or the NMFS.

##### *Magnuson-Stevens Act*

The Fishery Conservation and Management Act, also known as the Magnuson-Stevens Act, empowers the NMFS to regulate the fisheries of the United States. Agencies must consult with the NMFS on all activities or proposed activities that might have an adverse effect on an essential fish habitat (EFH). If a project may affect an EFH, an agency must prepare and submit an EFH Assessment (Assessment) to the NMFS. This Assessment is included in an individual biological assessment or programmatic form. When ESA species are not present, a stand-alone Assessment may be required.

##### *Migratory Bird Treaty Act*

The Migratory Bird Treaty Act (MBTA), administered by the USFWS, makes it unlawful to take, import, export, possess, sell, purchase, or barter any migratory bird, with the exception of the taking of game birds during established hunting seasons. An agency that takes an action that might impact a species protected under the MBTA must apply for an annual MBTA permit from the USFWS that covers most compliance issues. Some projects may require the preparation of a Bird Protection Plan (BPP), which includes measures to avoid or minimize impacts to nesting birds.

##### *The Bald and Golden Eagle Protection Act*

The Bald and Golden Eagle Protection Act, administered by the USFWS, makes it unlawful to take, import, export, sell, purchase, or barter any bald or golden eagle, their parts, products, nests, or eggs. The meaning of "take" includes pursuing, shooting, poisoning, wounding, killing, capturing, trapping, collecting, molesting, or disturbing eagles. If an agency project may affect an active or inactive eagle nest, that agency must prepare a BPP and include measures to avoid or minimize impacts to nesting birds.

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

The Department of Fish and Wildlife (DFW) must convene an Avian Salmon Predation Work Group (Work Group). The Work Group is required to identify all avian species that predate on juvenile salmon at a population level, determine whether those species are adversely impacting the recovery of any threatened or endangered salmon species, and identify remedies. The Work Group is required to report to the Legislature and the DFW by June 30, 2025. The Work Group expires on July 1, 2026.

The Work Group must consist of:

- five members from federally recognized Indian tribes with fishing rights in Washington;
- one member each from the: DFW; United States Fish and Wildlife Service; United States Army Corps of Engineers; National Marine Fisheries Service West Coast Region; Oregon Department of Fish and Wildlife; and Puget Sound Partnership;
- two members each representing: recreational fishers; and commercial fishers; and
- one member each representing: a salmon conservation organization; and an avian conservation organization.

**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) Salmon stocks in Washington have been in decline for a long time. Washington has a legal and moral obligation to ensure that salmon are abundant and harvestable so that Indigenous peoples can maintain their cultures. The state should also ensure that its salmon, and wildlife generally, remain abundant for future generations. The decline of salmon stock can translate into the loss of millions of tax dollars. Avian predation on salmon is an important cause of the decline of salmon stock. However, we still do not fully understand the effects of avian predation on the growth of fish populations in the Puget Sound and its connected rivers. The Avian Predation Work Group (Work Group) would study the issue and make recommendations based on data and science. Data is necessary to create good policy.

(Opposed) Much avian predation of salmon is caused by human effects on the environment. For example, bridges are excellent perching spots for predators hunting salmon in the rivers below. The intent of the Work Group is to get rid of predators without addressing underlying issues. Study, however, is a good thing. The input of more stakeholders and scientists would make the Work Group more effective. The Work Group

should be careful about any solutions that it proposes because they could backfire and exacerbate existing problems. The culling of predators, such as cormorants, has not been successful in the past. There should therefore be more emphasis on scientific and nonlethal solutions.

(Other) Avian predation is an important and complex issue. However, birds are not the only cause of salmon decline and seabird populations are themselves in decline. The Work Group would benefit from the addition of a representative of a bird conservation organization. The Work Group further needs to base its decision on the best science. Given the current state of knowledge about marine birds' diets, the Work Group should identify research gaps and try to fill them.

**Persons Testifying:** (In support) Representative J.T. Wilcox, prime sponsor; James Wilcox Jr., Wilcox Family Farms; David Troutt, Nisqually Indian Tribe; and Thomas Nelson, The Outdoor Line LLC.

(Opposed) David Moskowitz, The Conservation Angler; and Ann Prezyna, Washington Wildlife First.

(Other) Hannah Anderson, Washington Department of Fish and Wildlife; and Adam Maxwell, Audubon Washington.

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