

WSR 21-10-066
RULES OF COURT
STATE SUPREME COURT
[April 7, 2021]

IN THE MATTER OF THE) ORDER
SUGGESTED AMENDMENTS TO) NO. 25700-A-1338
IRLJ 6.2(d)—MONETARY PENALTY)
SCHEDULE FOR INFRACTIONS)

The Washington Department of Fish and Wildlife, having recommended the suggested amendments to IRLJ 6.2(d)—Monetary Penalty Schedule for Infractions, and the Court having approved the suggested amendments for publication;

Now, therefore, it is hereby

ORDERED:

(a) That pursuant to the provisions of GR 9(g), the suggested amendments as shown below are to be published for comment in the Washington Reports, Washington Register, Washington State Bar Association and Administrative Office of the Court's websites on May 1, 2021.

(b) The purpose statement as required by GR 9(e), is published solely for the information of the Bench, Bar and other interested parties.

(c) Comments are to be submitted to the Clerk of the Supreme Court by either U.S. Mail or Internet E-Mail by no later than July 1, 2021. Comments may be sent to the following addresses: P.O. Box 40929, Olympia, Washington 98504-0929, or supreme@courts.wa.gov. Comments submitted by e-mail message must be limited to 1500 words.

DATED at Olympia, Washington this 7th day of April, 2021.

For the Court

Gonzalez, C.J.

CHIEF JUSTICE

GR 9 COVER SHEET

Suggested Amendment to

WASHINGTON STATE COURT RULES:

IRLJ 6.2

Submitted by the Washington Department of Fish and Wildlife

A. Name of Proponent: Captain Jeff Wickersham, WDFW Enforcement Denise Marti, WDFW Enforcement Legal Liaison Tom McBride, WDFW Legislative Director

B. Spokesperson: Tom McBride, WDFW Legislative Director

C. Purpose: Recent legislation, Laws of 2020 Ch. 38, § 3, amends RCW 77.15.160 (effective June 11, 2020), to provide for greater infraction issuance authority for fish and wildlife enforcement in situations currently designated as criminal offenses. These new, and some existing, infractions are not included for penalty amounts under IRLJ 6.2. This draft lists the specific infractions and designates the base penalty for each infraction. This will reduce confusion in the courts and promote proportionate and equal application of the laws and penalties statewide.

D. Proposed Amendments: [see below]

E. Hearing: A hearing is not recommended due to the technical nature of the amendment. Further the infraction options created allow for a civil penalty to be imposed as opposed to a criminal penalty, reducing both sanction and court costs.

F. Expedited Consideration: Expedited consideration is requested to minimize confusion in the court and legal community.

IRLJ 6.2(d)
MONETARY PENALTY SCHEDULE FOR
INFRACTIONS

(a) Effect of Schedule. The penalty for any infraction listed in this rule may not be changed by local court rule. The court may impose on a defendant a lesser penalty in an individual case. Provided that, whenever the base penalty plus statutory assessments results in a total payment that is not an even dollar amount, the base penalty is deemed to be amended to a higher amount which produces the next greatest even dollar total.

(b) Unscheduled Infractions. The penalty for any infraction not listed in this rule shall be \$42, not including statutory assessments. A court may, by local court rule, provide for a different penalty.

(c) Infractions Not Covered. This schedule does not apply to penalties for parking, standing, stopping, or pedestrian infractions established by municipal or county statute. Penalties for those infractions are established by statute or local court rule, but shall be consistent with the philosophy of these rules.

(d) Penalty Schedule. The following infractions shall have the penalty listed, not including statutory assessments.

	Base Penalty
(5) Fish and Wildlife Infractions	
Fish for Personal Use—Barbed Hooks (RCW 77.15.160 (1)(a))	\$48 \$29
Fail to Immediately Record Fish/Shellfish Catch (RCW 77.15.160 (1)(b))	\$48 \$29
Fail to Return Catch Record Card (RCW 77.15.160 (1)(c))	\$39 \$29
Recreational Fishing—License not with Person (RCW 77.15.160 (1)(d)(i)) (no/fish/ shellfish possession)	\$73 \$48
<u>Recreational Fishing—Rule Violation: (no fish/shellfish possession) (RCW 77.15.160 (1)(d)(ii))</u>	\$73
<u>Involves Salmon or Steelhead (RCW 77.15.160 (1)(d)(ii)(A))</u>	\$87
<u>Involves Sturgeon (RCW 77.15.160 (1)(d)(ii)(B))</u>	\$48
<u>Involves Game Fish (RCW 77.15.160 (1)(d)(ii)(C))</u>	\$48
<u>Involves Food Fish (RCW 77.15.160 (1)(d)(ii)(E))</u>	\$38
<u>Involves Shellfish (RCW 77.15.160 (1)(d)(ii)(E))</u>	\$38
<u>Involves Unclassified Fish or Shellfish (RCW 77.15.160 (i)(d)(ii)(F))</u>	\$28
<u>Involves Waste of food fish, game fish or shellfish (RCW 77.15.160 (1)(d)(ii)(G))</u>	\$48 \$97

	Base Penalty
Seaweed—License not with Person (<2x daily limit) (RCW 77.15.160 (1)(e)(i))	\$48 <u>\$28</u>
Seaweed—Rule Violation (<2x daily limit) (RCW 77.15.160 (1)(e)(ii))	\$48 <u>\$28</u>
<u>Hunting Wild Animals—Infraction no license on person except Big Game (RCW 77.15.160 (2)(a))</u>	\$48
Harm Bird Eggs/Nests (not endangered/protected wild birds) (RCW 77.15.160 (2)(b))	\$97 <u>\$73</u>
<u>Hunting Infractions for Wildlife, Except Big Game:</u>	
<u>Involves unclassified wildlife (RCW 77.15.160 (2)(c)(i))</u>	\$48
<u>Involves Small Game (RCW 77.15.160 (2)(c)(ii))</u>	\$73
<u>Involves Furbearers (RCW 77.15.160 (2)(c)(iii))</u>	\$73
<u>Involves Game Birds (RCW 77.15.160 (2)(c)(iv))</u>	\$87
<u>Involves Wild Birds (RCW 77.15.160 (2)(c)(v))</u>	\$73
<u>Involves Wild Animals (RCW 77.15.160 (2)(c)(vi))</u>	\$48
<u>Involves Waste of Small Game (RCW 77.15.160 (2)(c)(vii))</u>	\$97
Taxidermist/Fur Dealer/Wildlife Meat Cutter—Fail to Maintain Records (RCW 77.15.160 (3)(a)(i))	\$122 \$73
Taxidermist/Fur Dealer/Wildlife Meat Cutter—Fail to Report Information (RCW 77.15.160 (3)(a)(ii))	\$73 <u>\$48</u>
Trapper—Fail to Report Trapping Activity (RCW 77.15.160 (3)(b))	\$73 <u>\$48</u>
<u>Limited Fish Seller Infraction (RCW 77.15.160(4))</u>	\$73
<u>Invasive Species Infraction—No out of state certificate (RCW 77.15.160 (5)(a)(i))</u>	\$43
<u>Invasive Species Infraction—Clean and Drain Requirements (RCW 77.15.160 (5)(a)(ii))</u>	\$43
<u>Invasive Species Infraction—Fail to Obey Clean and Drain Order (RCW 77.15.160 (5)(a)(iii))</u>	\$87
<u>Invasive Species Infraction—Fail to Possess AIS Prevention Permit (RCW 77.15.160 (5)(a)(iv))</u>	\$43
<u>Other Infractions—Unlawfully Conducting or Holding a Fishing Contest or Field Trial (RCW 77.15.160 (6)(a))</u>	\$146
<u>Other Infractions—Violate any other Department rule designated as an infraction (RCW 77.15.160 (6)(b))</u>	\$73
<u>Other Infractions—Unlawfully posting signs (RCW 77.15.160 (6)(c))</u>	\$122

	Base Penalty
<u>Department Permits—Violates any Terms or Conditions (RCW 77.15.160 (6)(d)(i))</u>	<u>\$122</u>
<u>Department Permits—Violates any commercial, non-commercial or parking permit issued by the Department (RCW 77.15.160 (6)(d)(ii))</u>	<u>\$122</u>
Violate Distance/Feeding Prohibitions for Southern Resident Orca Whales (RCW 77.15.740)	<u>\$500</u>
Negligently Feed/Attempt to Feed Large Wild Carnivores (RCW 77.15.790)	<u>\$500</u>

Adopted effective September 1, 1992; amended effective June 25, 1993; May 1, 1994; August 15, 1995; June 5, 1996; December 28, 1999; July 22, 2001; August 2, 2005; April 30, 2007; December 10, 2013; July 1, 2015; July 28, 2020.]

Reviser's note: The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.