

Title 77

FISH AND WILDLIFE

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Chapter 77.04 RCW

DEPARTMENT OF FISH AND WILDLIFE

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77.04.010 Short title. This title is known and may be cited as "Fish and Wildlife Code of the State of Washington." [2000 c 107 § 201; 1990 c 84 § 1; 1980 c 78 § 2; 1955 c 36 § 77.04.010. Prior: 1947 c 275 § 1; Rem. Supp. 1947 § 5992-11.]

Intent, construction—1980 c 78: "In enacting this 1980 act, it is the intent of the legislature to revise and reorganize the game code of this state to clarify and improve the administration of the state's game laws. Unless the context clearly requires otherwise, the revisions made to the game code by this act are not to be construed as substantive." [1980 c 78 § 1.]

Additional notes found at www.leg.wa.gov

77.04.012 Mandate of department and commission. Wildlife, fish, and shellfish are the property of the state. The commission, director, and the department shall preserve, protect, perpetuate, and manage the wildlife and food fish, game fish, and shellfish in state waters and offshore waters.

The department shall conserve the wildlife and food fish, game fish, and shellfish resources in a manner that does not impair the resource. In a manner consistent with this goal, the department shall seek to maintain the economic well-being and stability of the fishing industry in the state. The department shall promote orderly fisheries and shall enhance and improve recreational and commercial fishing in this state.

The commission may authorize the taking of wildlife, food fish, game fish, and shellfish only at times or places, or in manners or quantities, as in the judgment of the commission does not impair the supply of these resources.

The commission shall attempt to maximize the public recreational game fishing and hunting opportunities of all citizens, including juvenile, disabled, and senior citizens.

Recognizing that the management of our state wildlife, food fish, game fish, and shellfish resources depends heavily on the assistance of volunteers, the department shall work cooperatively with volunteer groups and individuals to achieve the goals of this title to the greatest extent possible.

Nothing in this title shall be construed to infringe on the right of a private property owner to control the owner's private property. [2000 c 107 § 2; 1983 1st ex.s. c 46 § 5; 1975 1st ex.s. c 183 § 1; 1949 c 112 § 3, part; Rem. Supp. 1949 § 5780-201, part. Formerly RCW 75.08.012, 43.25.020.]

State policy regarding improvement of recreational salmon fishing: See note following RCW 77.65.150.

77.04.013 Findings and intent. The legislature supports the recommendations of the state fish and wildlife commission with regard to the commission's responsibilities in the merged department of fish and wildlife. It is the intent of the legislature that, beginning July 1, 1996, the commission assume regulatory authority for food fish and shellfish in addition to its existing authority for game fish and wildlife. It is also the intent of the legislature to provide to the commission the authority to review and approve department agreements, to review and approve the department's budget proposals, to adopt rules for the department, and to select commission staff and the director of the department.

The legislature finds that all fish, shellfish, and wildlife species should be managed under a single comprehensive set of goals, policies, and objectives, and that the decision-making authority should rest with the fish and wildlife commission. The commission acts in an open and deliberative process that encourages public involvement and increases public confidence in department decision making. [1995 1st sp.s. c 2 § 1 (Referendum Bill No. 45, approved November 7, 1995). Formerly RCW 75.08.013.]

Additional notes found at www.leg.wa.gov

77.04.020 Composition of department—Powers and duties. The department consists of the state fish and wildlife commission and the director. The commission may delegate to the director any of the powers and duties vested in the commission. [2000 c 107 § 202; 1996 c 267 § 32; 1993 sp.s. c 2 § 59; 1987 c 506 § 4; 1980 c 78 § 3; 1955 c 36 § 77.04.020. Prior: 1947 c 275 § 2; Rem. Supp. 1947 § 5992-12.]

Intent—Effective date—1996 c 267: See notes following RCW 77.12.177.

Legislative findings and intent—1987 c 506: "Washington's fish and wildlife resources are the responsibility of all residents of the state. We all benefit economically, recreationally, and aesthetically from these resources. Recognizing the state's changing environment, the legislature intends to continue to provide opportunities for the people to appreciate wildlife in its native habitat. However, the wildlife management in the state of Washington shall not cause a reduction of recreational opportunity for hunting and fishing activities. The paramount responsibility of the department remains to preserve, protect, and perpetuate all wildlife species. Adequate funding for proper management, now and for future generations, is the responsibility of everyone.

The intent of the legislature is: (1) To allow the governor to select the director of wildlife; (2) to retain the authority of the wildlife commission to establish the goals and objectives of the department; (3) to insure a high level of public involvement in the decision-making process; (4) to provide effective communications among the commission, the governor, the legislature, and the public; (5) to expand the scope of appropriate funding for the management, conservation, and enhancement of wildlife; (6) to not increase the cost of license, tag, stamp, permit, and punch card fees prior to January 1, 1990; and (7) for the commission to carry out any other responsibilities prescribed by the legislature in this title." [1987 c 506 § 1.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

Additional notes found at www.leg.wa.gov

77.04.030 Commission—Appointment. The fish and wildlife commission consists of nine registered voters of the state. In January of each odd-numbered year, the governor shall appoint with the advice and consent of the senate three registered voters to the commission to serve for terms of six years from that January or until their successors are appointed and qualified. If a vacancy occurs on the commission prior to the expiration of a term, the governor shall

appoint a registered voter within sixty days to complete the term. Three members shall be residents of that portion of the state lying east of the summit of the Cascade mountains, and three shall be residents of that portion of the state lying west of the summit of the Cascade mountains. Three additional members shall be appointed at large. No two members may be residents of the same county. The legal office of the commission is at the administrative office of the department in Olympia. [2001 c 155 § 1; 2000 c 107 § 203; 1994 c 264 § 52; 1993 sp.s. c 2 § 60; 1987 c 506 § 5; 1981 c 338 § 11; 1980 c 78 § 4; 1955 c 36 § 77.04.030. Prior: 1947 c 275 § 3; Rem. Supp. 1947 § 5992-13.]

Legislative findings and intent—1987 c 506: See note following RCW 77.04.020.

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

Additional notes found at www.leg.wa.gov

77.04.040 Commission—Qualifications of members. Persons eligible for appointment as members of the commission shall have general knowledge of the habits and distribution of fish and wildlife and shall not hold another state, county, or municipal elective or appointive office. In making these appointments, the governor shall seek to maintain a balance reflecting all aspects of fish and wildlife, including representation recommended by organized groups representing sportfishers, commercial fishers, hunters, private landowners, and environmentalists. Persons eligible for appointment as fish and wildlife commissioners shall comply with the provisions of chapters 42.52 and *42.17 RCW. [1995 1st sp.s. c 2 § 3 (Referendum Bill No. 45, approved November 7, 1995); 1993 sp.s. c 2 § 61; 1987 c 506 § 6; 1980 c 78 § 5; 1955 c 36 § 77.04.040. Prior: 1947 c 275 § 4; Rem. Supp. 1947 § 5992-14.]

***Reviser's note:** Provisions in chapter 42.17 RCW relating to public disclosure were recodified in chapter 42.56 RCW by 2005 c 274.

Legislative findings and intent—1987 c 506: See note following RCW 77.04.020.

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

Additional notes found at www.leg.wa.gov

77.04.055 Commission—Duties. (1) In establishing policies to preserve, protect, and perpetuate wildlife, fish, and wildlife and fish habitat, the commission shall meet annually with the governor to:

(a) Review and prescribe basic goals and objectives related to those policies; and

(b) Review the performance of the department in implementing fish and wildlife policies.

The commission shall maximize fishing, hunting, and outdoor recreational opportunities compatible with healthy and diverse fish and wildlife populations.

(2) The commission shall establish hunting, trapping, and fishing seasons and prescribe the time, place, manner, and methods that may be used to harvest or enjoy game fish and wildlife.

(3) The commission shall establish provisions regulating food fish and shellfish as provided in RCW 77.12.047.

(4) The commission shall have final approval authority for tribal, interstate, international, and any other department agreements relating to fish and wildlife.

(5) The commission shall adopt rules to implement the state's fish and wildlife laws.

(6) The commission shall have final approval authority for the department's budget proposals.

(7) The commission shall select its own staff and shall appoint the director of the department. The director and commission staff shall serve at the pleasure of the commission. [2000 c 107 § 204; 1995 1st sp.s. c 2 § 4 (Referendum Bill No. 45, approved November 7, 1995); 1993 sp.s. c 2 § 62; 1990 c 84 § 2; 1987 c 506 § 7.]

Legislative findings and intent—1987 c 506: See note following RCW 77.04.020.

Additional notes found at www.leg.wa.gov

77.04.060 Commission—Meetings—Officers—Compensation, travel expenses. The commission shall hold at least one regular meeting during the first two months of each calendar quarter, and special meetings when called by the chair and by five members. Five members constitute a quorum for the transaction of business.

The commission at a meeting in each odd-numbered year shall elect one of its members as chair and another member as vice chair, each of whom shall serve for a term of two years or until a successor is elected and qualified.

Members of the commission shall be compensated in accordance with RCW 43.03.250. In addition, members are allowed their travel expenses incurred while absent from their usual places of residence in accordance with RCW 43.03.050 and 43.03.060. [2013 c 23 § 238; 1993 sp.s. c 2 § 63. Prior: 1987 c 506 § 8; 1987 c 114 § 1; 1984 c 287 § 110; 1980 c 78 § 6; 1977 c 75 § 89; 1975-'76 2nd ex.s. c 34 § 175; 1961 c 307 § 9; 1955 c 352 § 1; 1955 c 36 § 77.04.060; prior: 1949 c 205 § 1; 1947 c 275 § 6; Rem. Supp. 1949 § 5992-16.]

Legislative findings and intent—1987 c 506: See note following RCW 77.04.020.

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

Additional notes found at www.leg.wa.gov

77.04.080 Director—Qualifications—Duties—Salary. Persons eligible for appointment as director shall have practical knowledge of the habits and distribution of fish and wildlife. The director shall supervise the administration and operation of the department and perform the duties prescribed by law and delegated by the commission. The director shall carry out the basic goals and objectives prescribed under RCW 77.04.055. The director may appoint and employ necessary personnel. The director may delegate, in writing, to department personnel the duties and powers necessary for efficient operation and administration of the department.

Only persons having general knowledge of the fisheries and wildlife resources and of the commercial and recreational fishing industry in this state are eligible for appointment as director. The director shall not have a financial interest in the fishing industry or a directly related industry. The director

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shall receive the salary fixed by the governor under RCW 43.03.040.

The director is the ex officio secretary of the commission and shall attend its meetings and keep a record of its business. [2000 c 107 § 205; 1995 1st sp.s. c 2 § 5 (Referendum Bill No. 45, approved November 7, 1995); 1993 sp.s. c 2 § 64; 1987 c 506 § 9; 1980 c 78 § 8; 1955 c 36 § 77.04.080. Prior: 1947 c 275 § 8; Rem. Supp. 1947 § 5992-18.]

Legislative findings and intent—1987 c 506: See note following RCW 77.04.020.

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

Additional notes found at www.leg.wa.gov

77.04.090 Rule-making authority—Certified copy as evidence. The commission shall adopt permanent rules and amendments to or repeals of existing rules by approval of a majority of the members by resolution, entered and recorded in the minutes of the commission: PROVIDED, That the commission may not adopt rules after July 23, 1995, that are based solely on a section of law stating a statute's intent or purpose, on the enabling provisions of the statute establishing the agency, or on any combination of such provisions, for statutory authority to adopt any rule. The commission shall adopt emergency rules by approval of a majority of the members. The commission, when adopting emergency rules under RCW 77.12.150, shall adopt rules in conformance with chapter 34.05 RCW. Judicial notice shall be taken of the rules filed and published as provided in RCW 34.05.380 and 34.05.210.

A copy of an emergency rule, certified as a true copy by a member of the commission, the director, or by a person authorized in writing by the director to make the certification, is admissible in court as prima facie evidence of the adoption and validity of the rule. [1996 c 267 § 35; 1995 c 403 § 111; 1984 c 240 § 1; 1980 c 78 § 16; 1955 c 36 § 77.12.050. Prior: 1947 c 275 § 15; Rem. Supp. 1947 § 5992-25. Formerly RCW 77.12.050.]

Intent—Effective date—1996 c 267: See notes following RCW 77.12.177.

Findings—Short title—Intent—1995 c 403: See note following RCW 34.05.328.

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.04.120 Director—Research—Reports. (1) The director shall investigate the habits, supply, and economic use of food fish and shellfish in state and offshore waters.

(2) The director shall make an annual report to the governor on the operation of the department and the statistics of the fishing industry.

(3) Subject to RCW 40.07.040, the director shall provide a comprehensive biennial report of all departmental operations to the chairs of the committees on natural resources of the senate and house of representatives, the senate ways and means committee, and the house of representatives appropriations committee, including one copy to the staff of each of the committees, to reflect the previous fiscal period. The format of the report shall be similar to reports issued by the department from 1964-1970 and the report shall include, but not be limited to, descriptions of all department activities

including: Revenues generated, program costs, capital expenditures, personnel, special projects, new and ongoing research, environmental controls, cooperative projects, intergovernmental agreements, and outlines of ongoing litigation, recent court decisions and orders on major issues with the potential for state liability. The report shall describe the status of the resource and its recreational, commercial, and tribal utilization. The report shall be made available to the public. [2000 c 107 § 3; 1988 c 36 § 31; 1987 c 505 § 71; 1985 c 208 § 1; 1985 c 93 § 1; 1983 1st ex.s. c 46 § 7; 1977 c 75 § 87; 1955 c 12 § 75.08.020. Prior: 1949 c 112 § 7(3), (6), (7); Rem. Supp. 1949 § 5780-206 (3), (6), (7). Formerly RCW 75.08.020.]

Director of fish and wildlife to develop proposals to reinstate salmon and steelhead in Tilton and Cowlitz rivers: RCW 77.12.765.

77.04.130 Adoption and certification of rules. (1) Rules of the commission shall be adopted by the commission or a designee in accordance with chapter 34.05 RCW.

(2) Rules of the commission shall be admitted as evidence in the courts of the state when accompanied by an affidavit from the commission or a designee certifying that the rule has been lawfully adopted and the affidavit is prima facie evidence of the adoption of the rule.

(3) The commission may designate department employees to act on the commission's behalf in the adoption and certification of rules. [1995 1st sp.s. c 2 § 12 (Referendum Bill No. 45, approved November 7, 1995); 1983 1st ex.s. c 46 § 16; 1973 c 93 § 1; 1955 c 12 § 75.08.090. Prior: 1949 c 112 § 6, part; Rem. Supp. 1949 § 5780-205, part. Formerly RCW 75.08.090.]

Additional notes found at www.leg.wa.gov

77.04.140 Unofficial printings of laws or rules—Approval required. Provisions of this title or rules of the commission shall not be printed in a pamphlet unless the pamphlet is clearly marked as an unofficial version. This section does not apply to printings approved by the commission. [1995 1st sp.s. c 2 § 13 (Referendum Bill No. 45, approved November 7, 1995); 1983 1st ex.s. c 46 § 17; 1955 c 12 § 75.08.110. Prior: 1949 c 112 § 16; Rem. Supp. 1949 § 5780-215. Formerly RCW 75.08.110.]

Additional notes found at www.leg.wa.gov

77.04.145 Notification requirements. Actions under this chapter are subject to the notification requirements of RCW 43.17.400. [2007 c 62 § 7.]

Finding—Intent—Severability—2007 c 62: See notes following RCW 43.17.400.

77.04.150 Hunters and fishers with disabilities—Advisory committee—Composition—Terms—Pilot project—Report to the legislature. (1) The commission must appoint an advisory committee to generally represent the interests of hunters and fishers with disabilities on matters including, but not limited to, special hunts, modified sporting equipment, access to public land, and hunting and fishing opportunities. The advisory committee is composed of seven members, each being an individual with a disability. The advisory committee members must represent the entire state. The members must be appointed so that each of the six

department administrative regions, as they existed on January 1, 2007, are represented with one resident on the advisory committee. One additional member must be appointed at large. The chair of the advisory committee must be a member of the advisory committee and shall be selected by the members of the advisory committee.

(2) For the purposes of this section, an individual with a disability includes but is not limited to:

(a) An individual with a permanent disability who is not ambulatory over natural terrain without a prosthesis or assistive device;

(b) An individual with a permanent disability who is unable to walk without the use of assistance from a brace, cane, crutch, wheelchair, scooter, walker, or other assistive device;

(c) An individual who has a cardiac condition to the extent that the individual's functional limitations are severe;

(d) An individual who is restricted by lung disease to the extent that the individual's functional limitations are severe;

(e) An individual who is totally blind or visually impaired; or

(f) An individual with a permanent disability with upper or lower extremity impairments who does not have the use of one or both upper or lower extremities.

(3) The members of the advisory committee are appointed for a four-year term. If a vacancy occurs on the advisory committee prior to the expiration of a term, the commission must appoint a replacement within sixty days to complete the term.

(4) The advisory committee must meet at least semiannually, and may meet at other times as requested by a majority of the advisory committee members for any express purpose that directly relates to the duties set forth in subsection (1) of this section. A majority of members currently serving on the advisory committee constitutes a quorum. The department must provide staff support for all official advisory committee meetings.

(5) Each member of the advisory committee shall serve without compensation but may be reimbursed for travel expenses as authorized in RCW 43.03.050 and 43.03.060.

(6) The members of the advisory committee, or individuals acting on their behalf, are immune from civil liability for official acts performed in the course of their duties.

(7) Beginning December 1, 2011, and again at least once every four years, the commission shall present a report to the appropriate legislative committees detailing the effectiveness of the advisory committee including, but not limited to, the participation levels, general interest, quality of advice, and recommendations as to the advisory committee's continuance or modification. [2008 c 294 § 1; 2005 c 149 § 1; 2001 c 312 § 1.]

77.04.160 Surplus salmon report. (1) The department shall prepare an annual surplus salmon report. This report shall include the disposition of adult salmonids that have returned to salmonid hatchery facilities operated under the jurisdiction of the state that:

(a) Have not been harvested; and

(b) Were not allowed to escape for natural spawning.

(2) The report shall include, by species, the number and estimated weight of surplus salmon and steelhead and a

description of the disposition of the adult carcasses including, but not limited to, the following categories:

- (a) Disposed in landfills;
- (b) Transferred to another government agency for reproductive purposes;
- (c) Sold to contract buyers in the round;
- (d) Sold to contract buyers after spawning;
- (e) Transferred to Native American tribes;
- (f) Donated to food banks; and
- (g) Used in stream nutrient enrichment programs.

(3) The report shall also include, by species, information on the number of requests for viable salmon eggs, the number of these requests that were granted and the number that were denied, the geographic areas for which these requests were granted or denied, and a brief explanation given for each denial of a request for viable salmon eggs.

(4) The report shall be included in the biennial state of the salmon report required by *RCW 77.85.020 and other similar state reports on salmon.

(5) The report shall include an assessment of the infrastructure needs and facility modifications necessary to implement chapter 337, Laws of 2001. [2001 c 337 § 5.]

*Reviser's note: RCW 77.85.020 was amended by 2009 c 345 § 4, deleting the biennial state of the salmon report. RCW 77.85.020 now directs the recreation and conservation office to produce a biennial report.

77.04.170 Funding for fish stock protection or recovery programs—Prioritization and selection process requirements—Development of outcome-focused performance measures. In administering programs funded with moneys from the capital budget related to protection or recovery of fish stocks, the department shall incorporate the environmental benefits of a project into its prioritization and selection process. The department shall also develop appropriate outcome-focused performance measures to be used both for management and performance assessment of the program. To the extent possible, the department should coordinate its performance measure system with other natural resource-related agencies as defined in RCW 43.41.270. The department shall consult with affected interest groups in implementing this section. [2001 c 227 § 11.]

Findings—Intent—2001 c 227: See note following RCW 43.41.270.

**Chapter 77.08 RCW
GENERAL TERMS DEFINED**

Sections

77.08.010	Definitions.
77.08.020	"Game fish" defined.
77.08.022	"Food fish" defined.
77.08.024	"Salmon" defined.
77.08.030	"Big game" defined.
77.08.045	Migratory waterfowl terms defined.
77.08.075	"Resident" defined.
77.08.900	Construction—Title applicable to state registered domestic partnerships—2009 c 521.

77.08.010 Definitions. The definitions in this section apply throughout this title or rules adopted under this title unless the context clearly requires otherwise.

(1) "Angling gear" means a line attached to a rod and reel capable of being held in hand while landing the fish or a handheld line operated without rod or reel.

(2) "Bag limit" means the maximum number of game animals, game birds, or game fish which may be taken, caught, killed, or possessed by a person, as specified by rule of the commission for a particular period of time, or as to size, sex, or species.

(3) "Building" means a private domicile, garage, barn, or public or commercial building.

(4) "Closed area" means a place where the hunting of some or all species of wild animals or wild birds is prohibited.

(5) "Closed season" means all times, manners of taking, and places or waters other than those established by rule of the commission as an open season. "Closed season" also means all hunting, fishing, taking, or possession of game animals, game birds, game fish, food fish, or shellfish that do not conform to the special restrictions or physical descriptions established by rule of the commission as an open season or that have not otherwise been deemed legal to hunt, fish, take, harvest, or possess by rule of the commission as an open season.

(6) "Closed waters" means all or part of a lake, river, stream, or other body of water, where fishing or harvesting is prohibited.

(7) "Commercial" means related to or connected with buying, selling, or bartering.

(8) "Commission" means the state fish and wildlife commission.

(9) "Concurrent waters of the Columbia river" means those waters of the Columbia river that coincide with the Washington-Oregon state boundary.

(10) "Contraband" means any property that is unlawful to produce or possess.

(11) "Covered animal species" means any species of elephant, rhinoceros, tiger, lion, leopard, cheetah, pangolin, marine turtle, shark, or ray either: (a) Listed in appendix I or appendix II of the convention on international trade in endangered species of wild flora and fauna; or (b) listed as critically endangered, endangered, or vulnerable on the international union for conservation of nature and natural resources red list of threatened species.

(12) "Covered animal species part or product" means any item that contains, or is wholly or partially made from, any covered animal species.

(13) "Deleterious exotic wildlife" means species of the animal kingdom not native to Washington and designated as dangerous to the environment or wildlife of the state.

(14) "Department" means the department of fish and wildlife.

(15) "Director" means the director of fish and wildlife.

(16) "Distribute" or "distribution" means either a change in possession for consideration or a change in legal ownership.

(17) "Endangered species" means wildlife designated by the commission as seriously threatened with extinction.

(18) "Ex officio fish and wildlife officer" means:

(a) A commissioned officer of a municipal, county, or state agency having as its primary function the enforcement of criminal laws in general, while the officer is acting in the respective jurisdiction of that agency;

(b) An officer or special agent commissioned by one of the following: The national marine fisheries service; the

Washington state parks and recreation commission; the United States fish and wildlife service; the Washington state department of natural resources; the United States forest service; or the United States parks service, if the agent or officer is in the respective jurisdiction of the primary commissioning agency and is acting under a mutual law enforcement assistance agreement between the department and the primary commissioning agency;

(c) A commissioned fish and wildlife peace officer from another state who meets the training standards set by the Washington state criminal justice training commission pursuant to RCW 10.93.090, 43.101.080, and 43.101.200, and who is acting under a mutual law enforcement assistance agreement between the department and the primary commissioning agency; or

(d) A Washington state tribal police officer who successfully completes the requirements set forth under RCW 43.101.157, is employed by a tribal nation that has complied with RCW 10.92.020(2) (a) and (b), and is acting under a mutual law enforcement assistance agreement between the department and the tribal government.

(19) "Fish" includes all species classified as game fish or food fish by statute or rule, as well as all finfish not currently classified as food fish or game fish if such species exist in state waters. The term "fish" includes all stages of development and the bodily parts of fish species.

(20) "To fish" and its derivatives means an effort to kill, injure, harass, harvest, or capture a fish or shellfish.

(21) "Fish and wildlife officer" means a person appointed and commissioned by the director, with authority to enforce this title and rules adopted pursuant to this title, and other statutes as prescribed by the legislature. Fish and wildlife officer includes a person commissioned before June 11, 1998, as a wildlife agent or a fisheries patrol officer.

(22) "Fish broker" means a person who facilitates the sale or purchase of raw or frozen fish or shellfish on a fee or commission basis, without assuming title to the fish or shellfish.

(23) "Fish dealer" means a person who engages in any activity that triggers the need to obtain a fish dealer license under RCW 77.65.280.

(24) "Fishery" means the taking of one or more particular species of fish or shellfish with particular gear in a particular geographical area.

(25) "Food, food waste, or other substance" includes human and pet food or other waste or garbage that could attract large wild carnivores.

(26) "Fresh water" means all waters not defined as salt water including, but not limited to, rivers upstream of the river mouth, lakes, ponds, and reservoirs.

(27) "Fur-bearing animals" means game animals that shall not be trapped except as authorized by the commission.

(28) "Fur dealer" means a person who purchases, receives, or resells raw furs for commercial purposes.

(29) "Game animals" means wild animals that shall not be hunted except as authorized by the commission.

(30) "Game birds" means wild birds that shall not be hunted except as authorized by the commission.

(31) "Game farm" means property on which wildlife is held, confined, propagated, hatched, fed, or otherwise raised

for commercial purposes, trade, or gift. The term "game farm" does not include publicly owned facilities.

(32) "Game reserve" means a closed area where hunting for all wild animals and wild birds is prohibited.

(33) "To hunt" and its derivatives means an effort to kill, injure, harass, harvest, or capture a wild animal or wild bird.

(34) "Illegal items" means those items unlawful to be possessed.

(35)(a) "Intentionally feed, attempt to feed, or attract" means to purposefully or knowingly provide, leave, or place in, on, or about any land or building any food, food waste, or other substance that attracts or could attract large wild carnivores to that land or building.

(b) "Intentionally feed, attempt to feed, or attract" does not include keeping food, food waste, or other substance in an enclosed garbage receptacle or other enclosed container unless specifically directed by a fish and wildlife officer or animal control authority to secure the receptacle or container in another manner.

(36) "Large wild carnivore" includes wild bear, cougar, and wolf.

(37) "License year" means the period of time for which a recreational license is valid. The license year begins April 1st, and ends March 31st.

(38) "Limited-entry license" means a license subject to a license limitation program established in chapter 77.70 RCW.

(39) "Limited fish seller" means a licensed commercial fisher who sells his or her fish or shellfish to anyone other than a wholesale fish buyer thereby triggering the need to obtain a limited fish seller endorsement under RCW 77.65.510.

(40) "Money" means all currency, script, personal checks, money orders, or other negotiable instruments.

(41) "Natural person" means a human being.

(42)(a) "Negligently feed, attempt to feed, or attract" means to provide, leave, or place in, on, or about any land or building any food, food waste, or other substance that attracts or could attract large wild carnivores to that land or building, without the awareness that a reasonable person in the same situation would have with regard to the likelihood that the food, food waste, or other substance could attract large wild carnivores to the land or building.

(b) "Negligently feed, attempt to feed, or attract" does not include keeping food, food waste, or other substance in an enclosed garbage receptacle or other enclosed container unless specifically directed by a fish and wildlife officer or animal control authority to secure the receptacle or container in another manner.

(43) "Nonresident" means a person who has not fulfilled the qualifications of a resident.

(44) "Offshore waters" means marine waters of the Pacific Ocean outside the territorial boundaries of the state, including the marine waters of other states and countries.

(45) "Open season" means those times, manners of taking, and places or waters established by rule of the commission for the lawful hunting, fishing, taking, or possession of game animals, game birds, game fish, food fish, or shellfish that conform to the special restrictions or physical descriptions established by rule of the commission or that have otherwise been deemed legal to hunt, fish, take, or possess by

rule of the commission. "Open season" includes the first and last days of the established time.

(46) "Owner" means the person in whom is vested the ownership dominion, or title of the property.

(47) "Person" means and includes an individual; a corporation; a public or private entity or organization; a local, state, or federal agency; all business organizations, including corporations and partnerships; or a group of two or more individuals acting with a common purpose whether acting in an individual, representative, or official capacity.

(48) "Personal property" or "property" includes both corporeal and incorporeal personal property and includes, among other property, contraband and money.

(49) "Personal use" means for the private use of the individual taking the fish or shellfish and not for sale or barter.

(50) "Predatory birds" means wild birds that may be hunted throughout the year as authorized by the commission.

(51) "To process" and its derivatives mean preparing or preserving fish, wildlife, or shellfish.

(52) "Protected wildlife" means wildlife designated by the commission that shall not be hunted or fished.

(53) "Raffle" means an activity in which tickets bearing an individual number are sold for not more than twenty-five dollars each and in which a permit or permits are awarded to hunt or for access to hunt big game animals or wild turkeys on the basis of a drawing from the tickets by the person or persons conducting the raffle.

(54) "Resident" has the same meaning as defined in RCW 77.08.075.

(55) "Salt water" means those marine waters seaward of river mouths.

(56) "Seaweed" means marine aquatic plant species that are dependent upon the marine aquatic or tidal environment, and exist in either an attached or free floating form, and includes but is not limited to marine aquatic plants in the classes Chlorophyta, Phaeophyta, and Rhodophyta.

(57) "Senior" means a person seventy years old or older.

(58) "Shark fin" means a raw, dried, or otherwise processed detached fin or tail of a shark.

(59)(a) "Shark fin derivative product" means any product intended for use by humans or animals that is derived in whole or in part from shark fins or shark fin cartilage.

(b) "Shark fin derivative product" does not include a drug approved by the United States food and drug administration and available by prescription only or medical device or vaccine approved by the United States food and drug administration.

(60) "Shellfish" means those species of marine and freshwater invertebrates that have been classified and that shall not be taken or possessed except as authorized by rule of the commission. The term "shellfish" includes all stages of development and the bodily parts of shellfish species.

(61) "State waters" means all marine waters and fresh waters within ordinary high water lines and within the territorial boundaries of the state.

(62) "To take" and its derivatives means to kill, injure, harvest, or capture a fish, shellfish, wild animal, bird, or seaweed.

(63) "Taxidermist" means a person who, for commercial purposes, creates lifelike representations of fish and wildlife

using fish and wildlife parts and various supporting structures.

(64) "Trafficking" means offering, attempting to engage, or engaging in sale, barter, or purchase of fish, shellfish, wildlife, or deleterious exotic wildlife.

(65) "To trap" and its derivatives means a method of hunting using devices to capture wild animals or wild birds.

(66) "Unclaimed" means that no owner of the property has been identified or has requested, in writing, the release of the property to themselves nor has the owner of the property designated an individual to receive the property or paid the required postage to effect delivery of the property.

(67) "Unclassified wildlife" means wildlife existing in Washington in a wild state that have not been classified as big game, game animals, game birds, predatory birds, protected wildlife, endangered wildlife, or deleterious exotic wildlife.

(68) "To waste" or "to be wasted" means to allow any edible portion of any game bird, food fish, game fish, shellfish, or big game animal other than cougar to be rendered unfit for human consumption, or to fail to retrieve edible portions of such a game bird, food fish, game fish, shellfish, or big game animal other than cougar from the field. For purposes of this chapter, edible portions of game birds must include, at a minimum, the breast meat of those birds. Entrails, including the heart and liver, of any wildlife species are not considered edible.

(69) "Wholesale fish buyer" means a person who engages in any fish buying or selling activity that triggers the need to obtain a wholesale fish buyer endorsement under RCW 77.65.340.

(70) "Wild animals" means those species of the class Mammalia whose members exist in Washington in a wild state. The term "wild animal" does not include feral domestic mammals or old world rats and mice of the family Muridae of the order Rodentia.

(71) "Wild birds" means those species of the class Aves whose members exist in Washington in a wild state.

(72) "Wildlife" means all species of the animal kingdom whose members exist in Washington in a wild state. This includes but is not limited to mammals, birds, reptiles, amphibians, fish, and invertebrates. The term "wildlife" does not include feral domestic mammals, old world rats and mice of the family Muridae of the order Rodentia, or those fish, shellfish, and marine invertebrates classified as food fish or shellfish by the director. The term "wildlife" includes all stages of development and the bodily parts of wildlife members.

(73) "Wildlife meat cutter" means a person who packs, cuts, processes, or stores wildlife for consumption for another for commercial purposes.

(74) "Youth" means a person fifteen years old for fishing and under sixteen years old for hunting. [2017 3rd sp.s. c 8 § 2. Prior: 2016 c 2 § 2 (Initiative Measure No. 1401, approved November 3, 2015); prior: 2014 c 202 § 301; 2014 c 48 § 1; prior: 2012 c 176 § 4; prior: 2011 c 324 § 3; 2009 c 333 § 12; 2008 c 277 § 2; prior: 2007 c 350 § 2; 2007 c 254 § 1; 2005 c 104 § 1; 2003 c 387 § 1; 2002 c 281 § 2; 2001 c 253 § 10; 2000 c 107 § 207; 1998 c 190 § 111; 1996 c 207 § 2; 1993 sp.s. c 2 § 66; 1989 c 297 § 7; 1987 c 506 § 11; 1980 c 78 § 9; 1955 c 36 § 77.08.010; prior: 1947 c 275 § 9; Rem. Supp. 1947 § 5992-19.]

Alphabetization—2017 3rd sp.s. c 8 § 2: "The code reviser's office is directed to move the definitions of "to fish," "to hunt," "to process," "to take," "to trap," and "to waste" or "to be wasted," by reordering them within RCW 77.08.010 in alphabetical order by the spelling of the main verb word." [2017 3rd sp.s. c 8 § 57.]

Finding—Intent—2017 3rd sp.s. c 8: "(1) The legislature finds that the commercial fishing industry is a benefit to the state as a whole, but particularly to coastal communities where it creates and sustains opportunities for employment. Maintaining a stable and economically viable commercial fishing industry requires:

(a) Preserving fishing opportunities by providing a fee structure for all commercial fishing permits that is not overly burdensome on the fishing industry; and

(b) Avoiding a strain on fish resources beyond sustainable spawning needs.

(2) The legislature intends to balance those needs by making certain adjustments to commercial fishing fees." [2017 3rd sp.s. c 8 § 1.]

Effective date—2017 3rd sp.s. c 8: "This act takes effect January 1, 2018." [2017 3rd sp.s. c 8 § 59.]

Finding—2016 c 2 (Initiative Measure No. 1401): See note following RCW 77.15.135.

Findings—2014 c 202: See note following RCW 77.135.010.

Findings—2011 c 324: See note following RCW 77.15.770.

Purpose—2002 c 281: "The legislature recognizes the potential economic and environmental damage that can occur from the introduction of invasive aquatic species. The purpose of this act is to increase public awareness of invasive aquatic species and enhance the department of fish and wildlife's regulatory capability to address threats posed by these species." [2002 c 281 § 1.]

Intent—1996 c 207: "It is the intent of the legislature to clarify hunting and fishing laws in light of the decision in *State v. Bailey*, 77 Wn. App. 732 (1995). The fish and wildlife commission has the authority to establish hunting and fishing seasons. These seasons are defined by limiting the times, manners of taking, and places or waters for lawful hunting, fishing, or possession of game animals, game birds, or game fish, as well as by limiting the physical characteristics of the game animals, game birds, or game fish which may be lawfully taken at those times, in those manners, and at those places or waters." [1996 c 207 § 1.]

Legislative findings and intent—1987 c 506: See note following RCW 77.04.020.

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

Additional notes found at www.leg.wa.gov

77.08.020 "Game fish" defined. (1) As used in this title or rules of the commission, "game fish" means those species of the class Osteichthyes that shall not be fished for except as authorized by rule of the commission and includes:

Scientific Name	Common Name
Ambloplites rupestris	rock bass
Coregonus clupeaformis	lake white fish
Ictalurus furcatus	blue catfish
Ictalurus melas	black bullhead
Ictalurus natalis	yellow bullhead
Ictalurus nebulosus	brown bullhead
Ictalurus punctatus	channel catfish
Lepomis cyanellus	green sunfish
Lepomis gibbosus	pumpkinseed
Lepomis gulosus	warmouth
Lepomis macrochirus	bluegill
Lota lota	burbot or freshwater ling
Micropterus dolomieu	smallmouth bass
Micropterus salmoides	largemouth bass

Scientific Name	Common Name
Oncorhynchus nerka (in its landlocked form)	kokanee or silver trout
Perca flavescens	yellow perch
Pomoxis annularis	white crappie
Pomoxis nigromaculatus	black crappie
Prosopium williamsoni	mountain white fish
Oncorhynchus aquabonita	golden trout
Oncorhynchus clarkii	cutthroat trout
Oncorhynchus mykiss	rainbow or steelhead trout
Salmo salar (in its landlocked form)	Atlantic salmon
Salmo trutta	brown trout
Salvelinus fontinalis	eastern brook trout
Salvelinus malma	Dolly Varden trout
Salvelinus namaycush	lake trout
Stizostedion vitreum	Walleye
Thymallus arcticus	arctic grayling

(2) Private sector cultured aquatic products as defined in RCW 15.85.020 are not game fish. [1989 c 218 § 2; 1985 c 457 § 21; 1980 c 78 § 10; 1969 ex.s. c 19 § 1; 1955 c 36 § 77.08.020. Prior: 1947 c 275 § 10; Rem. Supp. 1947 § 5992-20.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.08.022 "Food fish" defined. "Food fish" means those species of the classes Osteichthyes, Agnatha, and Chondrichthyes that have been classified and that shall not be fished for except as authorized by rule of the commission. The term "food fish" includes all stages of development and the bodily parts of food fish species. [2000 c 107 § 208.]

77.08.024 "Salmon" defined. "Salmon" means all species of the genus *Oncorhynchus*, except those classified as game fish in RCW 77.08.020, and includes:

Scientific Name	Common Name
Oncorhynchus tshawytscha	Chinook salmon
Oncorhynchus kisutch	Coho salmon
Oncorhynchus keta	Chum salmon
Oncorhynchus gorbuscha	Pink salmon
Oncorhynchus nerka	Sockeye salmon

[2000 c 107 § 209.]

77.08.030 "Big game" defined. As used in this title or rules of the commission, "big game" means the following species:

Scientific Name	Common Name
Cervus canadensis	elk or wapiti
Odocoileus hemionus	blacktail deer or mule deer
Odocoileus virginianus	whitetail deer
Alces americana	moose
Oreamnos americanus	mountain goat

Scientific Name	Common Name
Rangifer caribou	caribou
Ovis canadensis	mountain sheep
Antilocapra americana	pronghorn antelope
Felis concolor	cougar or mountain lion
Euarctos americana	black bear
Ursus horribilis	grizzly bear

[1980 c 78 § 11; 1971 ex.s. c 166 § 1.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.08.045 Migratory waterfowl terms defined. As used in this title or rules adopted pursuant to this title:

(1) "Migratory waterfowl" means members of the family Anatidae, including brants, ducks, geese, and swans;

(2) "Migratory bird" means migratory waterfowl and coots, snipe, doves, and band-tailed pigeon;

(3) "Migratory bird permit" means the permit that is required by RCW 77.32.350 to be in the possession of all persons to hunt migratory birds; and

(4) "Prints and artwork" means replicas of the original stamp design that are sold to the general public. Prints and artwork are not to be construed to be the migratory bird permit that is required by RCW 77.32.350. Artwork may be any facsimile of the original stamp design, including color renditions, metal duplications, or any other kind of design. [2011 1st sp.s. c 21 § 17; 2011 c 339 § 2; 1998 c 191 § 31; 1987 c 506 § 12; 1985 c 243 § 2.]

Reviser's note: This section was amended by 2011 c 339 § 2 and by 2011 1st sp.s. c 21 § 17, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2011 1st sp.s. c 21: See note following RCW 72.23.025.

Effective date—2011 c 339: See note following RCW 43.84.092.

Legislative findings and intent—1987 c 506: See note following RCW 77.04.020.

Additional notes found at www.leg.wa.gov

77.08.075 "Resident" defined. For the purposes of this title or rules adopted under this title, "resident" means:

(1) A natural person who has maintained a permanent place of abode within the state for at least ninety days immediately preceding an application for a license, has established by formal evidence an intent to continue residing within the state, is not licensed to hunt or fish as a resident in another state or country, and is not receiving resident benefits of another state or country.

(a) For purposes of this section, "permanent place of abode" means a residence in this state that a person maintains for personal use.

(b) A natural person can demonstrate that the person has maintained a permanent place of abode in Washington by showing that the person:

(i) Uses a Washington state address for federal income tax or state tax purposes;

(ii) Designates this state as the person's residence for obtaining eligibility to hold a public office or for judicial actions;

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(iii) Is a registered voter in the state of Washington; or
(iv) Is a custodial parent with a child attending prekindergarten, kindergarten, elementary school, middle school, or high school in this state.

(c) A natural person can demonstrate the intent to continue residing within the state by showing that he or she:

(i) Has a valid Washington state driver's license; or

(ii) Has a valid Washington state identification card, if the person is not eligible for a Washington state driver's license; and

(iii) Has registered the person's vehicle or vehicles in Washington state;

(2) The spouse of a member of the United States armed forces if the member qualifies as a resident under subsection (1), (3), or (4) of this section, or a natural person age eighteen or younger who does not qualify as a resident under subsection (1) of this section, but who has a parent or legal guardian who qualifies as a resident under subsection (1), (3), or (4) of this section;

(3) A member of the United States armed forces temporarily stationed in Washington state on predeployment orders. A copy of the person's military orders is required to meet this condition;

(4) An active duty, nonretired member of the United States armed forces who is permanently stationed in Washington or who designates Washington on his or her military "state of legal residence certificate" or enlistment or reenlistment documents. A copy of the person's "state of legal residence certificate" or enlistment or reenlistment documents is required to meet the conditions of this subsection. [2014 c 48 § 2; 2012 c 176 § 5.]

77.08.900 Construction—Title applicable to state registered domestic partnerships—2009 c 521. For the purposes of this title, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted as applying equally to state registered domestic partnerships or individuals in state registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral, and applicable to individuals in state registered domestic partnerships. [2009 c 521 § 183.]

Chapter 77.12 RCW POWERS AND DUTIES

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Wild salmonid policy: RCW 77.65.420.

77.12.010 Limitation on prohibiting fishing with bait or artificial lures. The commission shall not adopt rules that categorically prohibit fishing with bait or artificial lures in streams, rivers, beaver ponds, and lakes except that the commission may adopt rules and regulations restricting fishing methods upon a determination by the director that an individual body of water or part thereof clearly requires a fishing method prohibition to conserve or enhance the fisheries resource or to provide selected fishing alternatives. [2000 c 107 § 210; 1985 c 438 § 1; 1980 c 78 § 12; 1977 c 74 § 1; 1955 c 36 § 77.12.010. Prior: 1947 c 275 § 11; Rem. Supp. 1947 § 5992-21.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.020 Wildlife to be classified. (1) The director shall investigate the habits and distribution of the various species of wildlife native to or adaptable to the habitats of the state. The commission shall determine whether a species should be managed by the department and, if so, classify it under this section.

(2) The commission may classify by rule wild animals as game animals and game animals as fur-bearing animals.

(3) The commission may classify by rule wild birds as game birds or predatory birds. All wild birds not otherwise classified are protected wildlife.

(4) In addition to those species listed in RCW 77.08.020, the commission may classify by rule as game fish other species of the class Osteichthyes that are commonly found in fresh water except those classified as food fish by the director.

(5) The director may recommend to the commission that a species of wildlife should not be hunted or fished. The commission may designate species of wildlife as protected.

(6) If the director determines that a species of wildlife is seriously threatened with extinction in the state of Washington, the director may request its designation as an endangered species. The commission may designate an endangered species.

(7) If the director determines that a species of the animal kingdom, not native to Washington, is dangerous to the environment or wildlife of the state, the director may request its designation as deleterious exotic wildlife. The commission may designate deleterious exotic wildlife.

(8) Upon recommendation by the director, the commission may develop a work plan to eradicate native aquatic species that threaten human health. Priority shall be given to water bodies that the department of health has classified as representing a threat to human health based on the presence of a native aquatic species. [2014 c 202 § 302; 2002 c 281 § 3; 1994 c 264 § 53; 1987 c 506 § 13; 1980 c 78 § 13; 1969 ex.s. c 18 § 1; 1955 c 36 § 77.12.020. Prior: 1947 c 275 § 12; Rem. Supp. 1947 § 5992-22.]

Findings—2014 c 202: See note following RCW 77.135.010.

Purpose—2002 c 281: See note following RCW 77.08.010.

Legislative findings and intent—1987 c 506: See note following RCW 77.04.020.

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.031 Llamas and alpacas. The authority of the department does not extend to preventing, controlling, or suppressing diseases in llamas or alpacas or to controlling the movement or sale of llamas or alpacas.

This section shall not be construed as granting or denying authority to the department to prevent, control, or suppress diseases in any animals other than llamas and alpacas. [1994 c 264 § 54; 1993 c 80 § 4.]

77.12.035 Protection of grizzly bears—Limitation on transplantation or introduction—Negotiations with federal and state agencies. The commission shall protect grizzly bears and develop management programs on publicly owned lands that will encourage the natural regeneration of grizzly bears in areas with suitable habitat. Grizzly bears shall not be transplanted or introduced into the state. Only grizzly bears that are native to Washington state may be utilized by the department for management programs. The department is directed to fully participate in all discussions and negotiations with federal and state agencies relating to grizzly bear management and shall fully communicate, support, and implement the policies of this section. [2000 c 107 § 211; 1995 c 370 § 1.]

77.12.037 Acquisition, use, and management of property—Condemnation—When authorized. The commission may acquire by gift, easement, purchase, lease, or condemnation lands, buildings, water rights, rights-of-way, or other necessary property, and construct and maintain necessary facilities for purposes consistent with this title. The commission may authorize the director to acquire property under this section, but the power of condemnation may only be

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exercised by the director when an appropriation has been made by the legislature for the acquisition of a specific property, except to clear title and acquire access rights-of-way.

The commission may sell, lease, convey, or grant concessions upon real or personal property under the control of the department. [2000 c 107 § 4; 1995 1st sp.s. c 2 § 23 (Referendum Bill No. 45, approved November 7, 1995); 1983 1st ex.s. c 46 § 9; 1955 c 212 § 1; 1955 c 12 § 75.08.040. Prior: 1949 c 112 § 7(2); Rem. Supp. 1949 § 5780-206(2). Formerly RCW 75.08.040.]

Tidelands reserved for recreational use and taking of fish and shellfish:
RCW 79.125.740, 79.125.750.

Additional notes found at www.leg.wa.gov

77.12.038 Notification requirements. Actions under this chapter are subject to the notification requirements of RCW 43.17.400. [2007 c 62 § 8.]

Finding—Intent—Severability—2007 c 62: See notes following RCW 43.17.400.

77.12.039 Acceptance of funds or property for damage claims or conservation of fish, shellfish, and wildlife resources. The director may accept money or real property from persons under conditions requiring the use of the property or money for the protection, rehabilitation, preservation, or conservation of the state wildlife, fish, and shellfish resources, or in settlement of claims for damages to wildlife, fish, and shellfish resources. The director shall only accept real property useful for the protection, rehabilitation, preservation, or conservation of fish, shellfish, and wildlife resources. [2001 c 253 § 11; 2000 c 107 § 5; 1995 1st sp.s. c 2 § 24 (Referendum Bill No. 45, approved November 7, 1995); 1983 1st ex.s. c 46 § 11; 1955 c 12 § 75.16.050. Prior: 1949 c 112 § 51; Rem. Supp. 1949 § 5780-325. Formerly RCW 75.08.045, 75.16.050.]

Additional notes found at www.leg.wa.gov

77.12.043 Contracts and agreements for propagation of fish or shellfish. (1) The director may enter into contracts and agreements with a person to secure fish or shellfish or for the construction, operation, and maintenance of facilities for the propagation of fish or shellfish.

(2) The director may enter into contracts and agreements to procure from private aquaculturists fish or shellfish with which to stock state waters. [2001 c 253 § 12; 1985 c 458 § 7; 1983 1st ex.s. c 46 § 13; 1955 c 12 § 75.16.070. Prior: 1949 c 112 § 53; Rem. Supp. 1949 § 5780-327. Formerly RCW 75.08.065, 75.16.070.]

77.12.045 Territorial authority of commission—Adoption of federal regulations and rules of fisheries commissions and compacts. Consistent with federal law, the commission's authority extends to all areas and waters within the territorial boundaries of the state, to the offshore waters, and to the concurrent waters of the Columbia river.

Consistent with federal law, the commission's authority extends to fishing in offshore waters by residents of this state.

The commission may adopt rules consistent with the regulations adopted by the United States department of commerce for the offshore waters. The commission may adopt rules consistent with the recommendations or regulations of

the Pacific marine fisheries commission, Columbia river compact, the Pacific salmon commission as provided in chapter 77.75 RCW, or the international Pacific halibut commission. [2001 c 253 § 13; 1995 1st sp.s. c 2 § 10 (Referendum Bill No. 45, approved November 7, 1995); 1989 c 130 § 1; 1983 1st ex.s. c 46 § 14; 1955 c 12 § 75.08.070. Prior: 1949 c 112 § 6, part; Rem. Supp. 1949 § 5780-205, part. Formerly RCW 75.08.070.]

Additional notes found at www.leg.wa.gov

77.12.047 Scope of commission's authority to adopt rules—Application to private tideland owners or lessees of the state. (1) The commission may adopt, amend, or repeal rules as follows:

(a) Specifying the times when the taking of wildlife, fish, or shellfish is lawful or unlawful.

(b) Specifying the areas and waters in which the taking and possession of wildlife, fish, or shellfish is lawful or unlawful.

(c) Specifying and defining the gear, appliances, or other equipment and methods that may be used to take wildlife, fish, or shellfish, and specifying the times, places, and manner in which the equipment may be used or possessed.

(d) Regulating the importation, transportation, possession, disposal, landing, and sale of wildlife, fish, shellfish, or seaweed within the state, whether acquired within or without the state. However, this authority must be exercised consistent with RCW 77.125.050 and 77.125.060. Additionally, the rules of the department must prohibit any person, including department staff, from translocating a live elk from an area with elk affected by hoof disease to any other location except:

(i) Consistent with a process developed by the department with input from the affected federally recognized tribes for translocation for monitoring or hoof disease management purposes; or

(ii) Within an elk herd management plan area affected by hoof disease.

(e) Regulating the prevention and suppression of diseases and pests affecting wildlife, fish, or shellfish.

(f) Regulating the size, sex, species, and quantities of wildlife, fish, or shellfish that may be taken, possessed, sold, or disposed of.

(g) Specifying the statistical and biological reports required from fishers, dealers, boathouses, or processors of wildlife, fish, or shellfish.

(h) Classifying species of marine and freshwater life as food fish or shellfish.

(i) Classifying the species of wildlife, fish, and shellfish that may be used for purposes other than human consumption.

(j) Regulating the taking, sale, possession, and distribution of wildlife, fish, shellfish, or deleterious exotic wildlife.

(k) Establishing game reserves and closed areas where hunting for wild animals or wild birds may be prohibited.

(l) Regulating the harvesting of fish, shellfish, and wildlife in the federal exclusive economic zone by vessels or individuals registered or licensed under the laws of this state.

(m) Authorizing issuance of permits to release, plant, or place fish or shellfish in state waters.

(n) Governing the possession of fish, shellfish, or wildlife so that the size, species, or sex can be determined visually in the field or while being transported.

(o) Other rules necessary to carry out this title and the purposes and duties of the department.

(2)(a) Subsections (1)(a), (b), (c), (d), and (f) of this section do not apply to private tideland owners and lessees and the immediate family members of the owners or lessees of state tidelands, when they take or possess oysters, clams, cockles, borers, or mussels, excluding razor clams, produced on their own private tidelands or their leased state tidelands for personal use.

(b) "Immediate family member" for the purposes of this section means a spouse, brother, sister, grandparent, parent, child, or grandchild.

(3) Except for subsection (1)(g) of this section, this section does not apply to private sector cultured aquatic products as defined in RCW 15.85.020. Subsection (1)(g) of this section does apply to such products. [2018 c 179 § 10; 2017 c 159 § 2; 2001 c 253 § 14; 2000 c 107 § 7; 1995 1st sp.s. c 2 § 11 (Referendum Bill No. 45, approved November 7, 1995); 1993 c 117 § 1; 1985 c 457 § 17; 1983 1st ex.s. c 46 § 15; 1980 c 55 § 1; 1955 c 12 § 75.08.080. Prior: 1949 c 112 § 6, part; Rem. Supp. 1949 § 5780-205, part. Formerly RCW 75.08.080.]

Finding—2017 c 159: "The legislature finds that elk hoof disease poses a significant threat to the state, including elk populations and livestock. While the legislature recognizes the efforts of the department of fish and wildlife thus far, more aggressive steps are necessary to achieve a better understanding of the hoof disease epidemic facing the state's elk populations and to ensure proactive management and treatment actions are pursued." [2017 c 159 § 1.]

Required rule making—2017 c 159: "The department of fish and wildlife must immediately adopt or amend any rule as necessary to implement, and ensure rules are consistent with, this act." [2017 c 159 § 4.]

Additional notes found at www.leg.wa.gov

77.12.058 Pollinator habitat. (1) The department must implement practices necessary to maintain pollinator habitat on department-owned and managed agricultural and grazing lands where practicable.

(2) The department must evaluate various restoration techniques with the goal of improving habitat for native pollinators. The department must update its riparian habitat recommendations to encourage development of pollinator habitat where practicable when making habitat improvements or for riparian restoration.

(3) For the purposes of this section, "pollinator habitat" means an area of land that is or may be developed as habitat beneficial for the feeding, nesting, and reproduction of all pollinators, including honey bees, as determined by the department. [2021 c 278 § 8; 2019 c 353 § 8.]

Purpose—Intent—2021 c 278: See note following RCW 43.23.320.

Findings—Intent—2019 c 353: See note following RCW 43.23.300.

77.12.068 Dissemination of information about RCW 77.15.740 and responsible wildlife viewing. The department and the state parks and recreation commission shall disseminate information about RCW 77.15.740, whale and wildlife viewing guidelines, and other responsible wildlife viewing messages to educate Washington's citizens on how to reduce the risk of disturbing southern resident orca whales.

The department and the state parks and recreation commission must, at minimum, disseminate this information on their internet sites and through appropriate agency publications, brochures, and other information sources. The department and the state parks and recreation commission shall also attempt to reach the state's boating community by coordinating with appropriate state and nongovernmental entities to provide this information at marinas, boat shows, boat dealers, during boating safety training courses, and in conjunction with vessel registration or licensing. [2008 c 225 § 4.]

Findings—Intent—2008 c 225: See notes following RCW 77.15.740.

77.12.071 Sampling of fish, wildlife, or shellfish by department employees. (1) Department employees, in carrying out their duties under this title on public lands or state waters, may:

(a) Collect samples of tissue, fluids, or other bodily parts of fish, wildlife, or shellfish; or

(b) Board vessels in state waters engaged in commercial and recreational harvest activities to collect samples of fish, wildlife, or shellfish.

(i) Department employees shall ask permission from the owner or his or her agent before boarding vessels in state waters.

(ii) If an employee of the department is denied access to any vessel where access was sought for the purposes of (b) of this subsection, the department employee may contact an enforcement officer for assistance in applying for a search warrant authorizing access to the vessel in order to carry out the department employee's duties under this section.

(2) Department employees must have official identification, announce their presence and intent, and perform their duties in a safe and professional manner while carrying out the activities in this section.

(3) This section does not apply to the harvest of private sector cultured aquatic products as defined in RCW 15.85.020.

(4) This section does not apply to fish and wildlife officers and ex officio fish and wildlife officers carrying out their duties under this title. [2007 c 337 § 2.]

Intent—Finding—2007 c 337: "The legislature intends that sampling of fish, wildlife, and shellfish by department of fish and wildlife employees will ensure the conservation and management of fish, shellfish, and wildlife. Because the harvest of fish and wildlife is regulated by the department, the legislature finds that sampling by departmental employees will benefit the resource, and will further the department's research related to fish, wildlife, and shellfish. This section and RCW 77.12.071 do not apply to the harvest of private sector cultured aquatic products as defined in RCW 15.85.020." [2007 c 337 § 1.]

77.12.075 Fish and wildlife federal lands revolving account. The fish and wildlife federal lands revolving account is created in the custody of the state treasurer. All receipts from the proceeds of good neighbor agreements as defined in RCW 79.02.010 and implemented by the department of fish and wildlife and all legislative transfers, gifts, grants, and federal funds designated for use in conjunction with a good neighbor agreement implemented by the department of fish and wildlife must be deposited into the account. Expenditures from the account are subject to the limitations of the agreements under which proceeds were generated and may be used only for the planning and implementation of

good neighbor agreements, including management or administrative costs and relevant goods and services. Only the director or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. The fish and wildlife federal lands revolving account is an interest-bearing account and the interest must be credited to the account. [2018 c 258 § 2.]

Effective date—2018 c 258: See note following RCW 79.02.010.

77.12.077 Use of dogs to hunt/pursue black bear, cougar, bobcat—Rules—Training program—Nonlethal pursuit. (1) The commission shall adopt by rule a process and criteria to select persons who may act as agents of the state for the purpose of using one or more dogs to hunt or pursue black bear, cougar, or bobcat to protect livestock, domestic animals, private property, or the public safety. The commission rule must outline the requirements an applicant must comply with when applying for the program including, but not limited to, a criminal background check.

(2) The department shall administer a training program to enable persons who have been selected pursuant to subsection (1) of this section to train dogs for use consistent with this section. The purpose of this program is to provide dog training opportunities using nonlethal pursuit. [2019 c 226 § 1.]

77.12.085 Liberalized bag limits for bass, walleye, and channel catfish. The commission shall adopt rules to liberalize bag limits for bass, walleye, and channel catfish in all anadromous waters of the state in order to reduce the predation risk to salmon smolts. [2019 c 290 § 2.]

Finding—Intent—2019 c 290: "(1) The legislature finds that the population of southern resident killer whales has declined in recent years and currently stands at a thirty-year low of seventy-four animals.

(2) The governor convened the southern resident killer whale task force after the 2018 legislative session to study and identify actions that could be taken to help sustain and recover this important species. In the course of its work, the task force found that chinook salmon compose the largest portion of the whales' diet, and are therefore critical to the recovery of the species. Further, several runs of chinook salmon in Washington state are listed under the federal endangered species act, making chinook recovery all the more urgent.

(3) The task force identified four overarching southern resident killer whale recovery goals and adopted several recommendations for specific actions under each goal. Goal one identified by the task force is to increase chinook abundance, and actions under that goal relate to habitat protection, protection of chinook prey, such as forage fish, and reducing impacts of non-native chinook predators.

(4) To address the need identified by the task force to increase chinook abundance, the legislature intends to take initial, important steps consistent with recommendations made by the governor's southern resident killer whale task force." [2019 c 290 § 1.]

77.12.140 Acquisition or sale of wildlife. The director, acting in a manner not inconsistent with criteria established by the commission, may obtain by purchase, gift, or exchange and may sell or transfer wildlife and their eggs for stocking, research, or propagation. [1987 c 506 § 23; 1980 c 78 § 28; 1955 c 36 § 77.12.140. Prior: 1947 c 275 § 24; Rem. Supp. 1947 § 5992-34.]

Legislative findings and intent—1987 c 506: See note following RCW 77.04.020.

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.150 Game seasons—Opening and closing—Special hunt. (1) By emergency rule only, and in accordance with criteria established by the commission, the director may close or shorten a season for game animals, game birds, or game fish, and after a season has been closed or shortened, may reopen it and reestablish bag limits on game animals, game birds, or game fish during that season. The director shall advise the commission of the adoption of emergency rules. A copy of an emergency rule, certified as a true copy by the director or by a person authorized in writing by the director to make the certification, is admissible in court as prima facie evidence of the adoption and validity of the rule.

(2)(a) If the director finds that game animals have increased in numbers in an area of the state so that they are damaging public or private property or over-utilizing their habitat, the commission may establish a special hunting season and designate the time, area, and manner of taking and the number and sex of the animals that may be killed or possessed by a licensed hunter. The director shall include notice of the special season in the rules establishing open seasons.

(b) When the department receives six complaints concerning damage to commercial agricultural and horticultural crop production by wildlife from the owner or tenant of real property, or from several owners or tenants in a locale, the commission shall conduct a special hunt or special hunts or take remedial action to reduce the potential for the damage, and shall authorize either one or two permits per hunter. Each complaint must be confirmed by qualified department staff, or their designee.

(c) The director shall determine by random selection the identity of hunters who may hunt within the area of the special hunt and shall determine the conditions and requirements of the selection process. Within this process, the department must maintain a list of all persons holding valid wildlife hunting licenses, arranged by county of residence, who may hunt deer or elk that are causing damage to crops. The department must update the list annually and utilize the list when contacting persons to assist in controlling game damage to crops. The department must make all reasonable efforts to contact individuals residing within the county where the hunting of deer or elk will occur before contacting a person who is not a resident of that county. The department must randomize the names of people on the list in order to provide a fair distribution of the hunting opportunities. Hunters who participate in hunts under this section must report any kills to the department. The department must include a summary of the wildlife harvested in these hunts in the annual game management reports it makes available to the public. [2003 c 385 § 2; 1987 c 506 § 24; 1984 c 240 § 4; 1980 c 78 § 29; 1977 ex.s. c 58 § 1; 1975 1st ex.s. c 102 § 1; 1955 c 36 § 77.12.150. Prior: 1949 c 205 § 2; 1947 c 275 § 25; Rem. Supp. 1949 § 5992-35.]

Legislative findings and intent—1987 c 506: See note following RCW 77.04.020.

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

Special hunting season permits: RCW 77.32.370.

77.12.152 Commission may designate fishing areas. The commission may designate the boundaries of fishing areas by driving piling or by establishing monuments or by

description of landmarks or section lines and directional headings. [1995 1st sp.s. c 2 § 14 (Referendum Bill No. 45, approved November 7, 1995); 1983 1st ex.s. c 46 § 18; 1955 c 12 § 75.08.120. Prior: 1949 c 112 § 10; Rem. Supp. 1949 § 5780-209. Formerly RCW 75.08.120.]

Additional notes found at www.leg.wa.gov

77.12.154 Right of entry—Aircraft operated by department. The director, fish and wildlife officers, ex officio fish and wildlife officers, and department employees may enter upon any land or waters and remain there while performing their duties without liability for trespass.

It is lawful for aircraft operated by the department to land and take off from the beaches or waters of the state. [1998 c 190 § 71; 1983 1st ex.s. c 46 § 19; 1955 c 12 § 75.08.160. Prior: 1949 c 112 § 13; Rem. Supp. 1949 § 5780-212. Formerly RCW 75.08.160.]

77.12.170 Limited fish and wildlife account—Deposits—Fish, wildlife, and conservation account—Established—Deposits. (1) There is established in the state treasury the limited fish and wildlife account which consists of moneys received from:

(a) Fees for personalized vehicle, Wild on Washington, and Endangered Wildlife license plates, Washington's Wildlife license plate collection, and Washington's fish license plate collection as provided in chapter 46.17 RCW;

(b) The department's share of revenues from auctions and raffles authorized by the commission;

(c) The sale of watchable wildlife decals under RCW 77.32.560;

(d) Moneys received from the recreation access pass account created in RCW 79A.80.090 must be dedicated to stewardship, operations, and maintenance of department lands used for public recreation purposes;

(e) Fees for informational materials published by the department;

(f) Those portions of the sale of licenses, permits, tags, stamps, endorsements, and application fees that are specified for a limited purpose within chapters 77.32, 77.65, and 77.70 RCW; and

(g) Income directed to the limited fish and wildlife account by any other statute not listed in this subsection.

(2) State and county officers receiving any moneys listed in subsection (1) of this section shall deposit them in the state treasury to be credited to the limited fish and wildlife account.

(3) There is established in the state treasury the fish, wildlife, and conservation account that consists of moneys received from:

(a) Rentals or concessions of the department;

(b) The sale of real or personal property held for department purposes, unless the property is seized or recovered through a fish, shellfish, or wildlife enforcement action;

(c) The assessment of administrative penalties;

(d) Those portions of the sale of licenses, permits, tags, stamps, endorsements, and application fees that are not specified for a limited purpose within chapters 77.32, 77.65, and 77.70 RCW;

(e) Articles or wildlife sold by the director under RCW 77.12.140;

(f) Excise tax on anadromous game fish collected under chapter 82.27 RCW;

(g) Donations received by the director under RCW 77.12.039;

(h) Income directed to the fish, wildlife, and conservation account by any other statute not listed in this subsection.

(4) State and county officers receiving any moneys listed in subsection (3) of this section shall deposit them in the state treasury to be credited to the fish, wildlife, and conservation account.

(5) Compensation for damage to department property or wildlife losses or contributions, gifts, or grants received under RCW 77.12.320 must be deposited into the special wildlife account created in RCW 77.12.323. However, this excludes fish and shellfish overages and court-ordered restitution or donations associated with any fish, shellfish, or wildlife enforcement action, as such moneys must be deposited in the enforcement reward account pursuant to RCW 77.15.425. [2020 c 148 § 5; 2017 3rd sp.s. c 8 § 3; 2016 c 30 § 5. Prior: 2011 c 339 § 3; 2011 c 320 § 23; 2011 c 171 § 112; 2009 c 333 § 13; prior: 2005 c 418 § 3; 2005 c 225 § 4; 2005 c 224 § 4; 2005 c 42 § 4; 2004 c 248 § 4; 2003 c 317 § 3; 2001 c 253 § 15; 2000 c 107 § 216; prior: 1998 c 191 § 38; 1998 c 87 § 2; 1996 c 101 § 7; 1989 c 314 § 4; 1987 c 506 § 25; 1984 c 258 § 334; prior: 1983 1st ex.s. c 8 § 2; 1983 c 284 § 1; 1981 c 310 § 2; 1980 c 78 § 30; 1979 c 56 § 1; 1973 1st ex.s. c 200 § 12 (Referendum Bill No. 33); 1969 ex.s. c 199 § 33; 1955 c 36 § 77.12.170; prior: 1947 c 275 § 27; Rem. Supp. 1947 § 5992-37.]

Calculation, transfer of money—2020 c 148: "The department of fish and wildlife must calculate the amount of money contained in the state wildlife account on July 1, 2021, that is derived from the revenue sources described in RCW 77.12.170(3) and provide this information to the office of financial management. If the office of financial management certifies the amount to be correct, the state treasurer must transfer the amount certified from the state wildlife account to the fish, wildlife, and conservation account created in RCW 77.12.170." [2020 c 148 § 29.]

Intent—2020 c 148: "In 2017, the legislature directed the department of fish and wildlife to conduct a budget and performance assessment.

That assessment identified a structural deficit in the current state wildlife account, which does not differentiate between restricted use revenues and nonrestricted revenues.

The legislature intends to increase transparency and accountability to the public by clearly dividing restricted and nonrestricted revenues into two separate accounts.

This act does not alter any current legal restrictions on revenue uses or alter the amounts of revenue collected." [2020 c 148 § 1.]

Effective date—2020 c 148: "This act takes effect July 1, 2021." [2020 c 148 § 30.]

Finding—Intent—Effective date—2017 3rd sp.s. c 8: See notes following RCW 77.08.010.

Effective date—2016 c 30: See note following RCW 46.18.200.

Effective date—2011 c 339: See note following RCW 43.84.092.

Effective date—2011 c 320: See note following RCW 79A.80.005.

Findings—Intent—2011 c 320: See RCW 79A.80.005.

Intent—Effective date—2011 c 171: See notes following RCW 4.24.210.

Findings—2003 c 317: See note following RCW 77.32.560.

Findings—1996 c 101: See note following RCW 77.32.530.

Finding—1989 c 314: See note following RCW 77.15.098.

Legislative findings and intent—1987 c 506: See note following RCW 77.04.020.

Intent—1984 c 258: See note following RCW 3.34.130.

Findings—Intent—1983 c 284: See note following RCW 82.27.020.

Legislative intent—1981 c 310: "The legislature finds that abundant deer and elk populations are in the best interest of the state, and for many reasons the state's deer and elk populations have apparently declined. The legislature further finds that antlerless deer and elk seasons have been an issue of great controversy throughout the state, and that antlerless deer and elk seasons may contribute to a further decline in the state's deer and elk populations." [1981 c 310 § 1.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

Personalized license plates—Legislative declaration: "It is declared to be the public policy of the state of Washington to direct financial resources of this state toward the support and aid of the wildlife resources existing within the state of Washington in order that the general welfare of these inhabitants of the state be served. For the purposes of *this chapter, wildlife resources are understood to be those species of wildlife other than that managed by the department of fisheries under their existing jurisdiction as well as all unclassified marine fish, shellfish, and marine invertebrates which shall remain under the jurisdiction of the director of fisheries. The legislature further finds that the preservation, protection, perpetuation, and enhancement of such wildlife resources of the state is of major concern to it, and that aid for a satisfactory environment and ecological balance in this state for such wildlife resources serves a public interest, purpose, and desire.

It is further declared that such preservation, protection, perpetuation, and enhancement can be fostered through financial support derived on a voluntary basis from those citizens of the state of Washington who wish to assist in such objectives; that a desirable manner of accomplishing this is through offering personalized license plates for certain vehicles and campers the fees for which are to be directed to the state treasury to the credit of the **state game fund for the furtherance of the programs, policies, and activities of the state **game department in preservation, protection, perpetuation, and enhancement of the wildlife resources that abound within the geographical limits of the state of Washington.

In particular, the legislature recognizes the benefit of this program to be specifically directed toward those species of wildlife including but not limited to song birds, protected wildlife, rare and endangered wildlife, aquatic life, and specialized-habitat types, both terrestrial and aquatic, as well as all unclassified marine fish, shellfish, and marine invertebrates which shall remain under the jurisdiction of the director of fisheries that exist within the limits of the state of Washington." [1975 c 59 § 7; 1973 1st ex.s. c 200 § 1. Formerly RCW 77.12.175.]

Reviser's note: *(1) The term "this chapter" refers to chapter 77.12 RCW, where this section was originally codified, pursuant to legislative directive, as RCW 77.12.175. It was subsequently decodified by 1980 c 78 § 32.

***(2) References to the "state game fund" and "game department" mean the "state wildlife fund" and "department of wildlife." See note following RCW 77.04.020. The "state wildlife fund" was renamed the "state wildlife account" pursuant to 2005 c 224 § 4 and 2005 c 225 § 4.

Additional notes found at www.leg.wa.gov

77.12.177 Disposition of moneys collected—Proceeds from sale of commercial licenses and fish, shellfish, or wildlife. (1) Except as provided in this title, state and county officers receiving the following moneys shall deposit them in the fish, wildlife, and conservation account:

(a) The sale of commercial licenses required under this title; and

(b) Moneys received for damages to fish, shellfish, or wildlife.

(2) Beginning with fiscal year 2018, and each fiscal year thereafter, the director must determine both the total amount of fees deposited in the fish, wildlife, and conservation account for the sale of commercial licenses required under this title, and the portion of those fees that is attributable to the fee increases enacted in chapter 8, Laws of 2017 3rd sp. sess. The director must certify these amounts to the state treasurer, who must transfer the difference between these two amounts to the state general fund within one month of the close of the fiscal year. The portion of those fees that is attrib-

utable to the fee increases enacted in chapter 8, Laws of 2017 3rd sp. sess. is retained in the fish, wildlife, and conservation account.

(3) All fines and forfeitures collected or assessed by a district court for a violation of this title or rule of the department shall be remitted as provided in chapter 3.62 RCW.

(4) Proceeds from the sale of fish or shellfish taken in test fishing conducted by the department, to the extent that these proceeds exceed the estimates in the budget approved by the legislature, may be allocated as unanticipated receipts under RCW 43.79.270 to reimburse the department for unanticipated costs for test fishing operations in excess of the allowance in the budget approved by the legislature.

(5) Proceeds from the sale of salmon carcasses and salmon eggs from state general funded hatcheries by the department shall be deposited in the regional fisheries enhancement group account established in RCW 77.95.090.

(6) Proceeds from the sale of herring spawn on kelp fishery licenses by the department, to the extent those proceeds exceed estimates in the budget approved by the legislature, may be allocated as unanticipated receipts under RCW 43.79.270. Allocations under this subsection shall be made only for herring management, enhancement, and enforcement. [2020 c 148 § 6; 2017 3rd sp.s. c 8 § 4; 2015 c 225 § 114; 2011 c 339 § 4; 2001 c 253 § 16; 2000 c 107 § 10; 1996 c 267 § 3; 1995 c 367 § 11; 1993 c 340 § 48; 1989 c 176 § 4; 1987 c 202 § 230; 1984 c 258 § 332; 1983 1st ex.s. c 46 § 23; 1979 c 151 § 175; 1977 ex.s. c 327 § 33; 1975 1st ex.s. c 223 § 1; 1969 ex.s. c 199 § 31; 1969 ex.s. c 16 § 1; 1965 ex.s. c 72 § 2; 1955 c 12 § 75.08.230. Prior: 1951 c 271 § 2; 1949 c 112 § 25; Rem. Supp. 1949 § 5780-223. Formerly RCW 75.08.230.]

Intent—Effective date—2020 c 148: See notes following RCW 77.12.170.

Finding—Intent—Effective date—2017 3rd sp.s. c 8: See notes following RCW 77.08.010.

Effective date—2011 c 339: See note following RCW 43.84.092.

Intent—1996 c 267: "It is the intent of this legislation to begin to make the statutory changes required by the fish and wildlife commission in order to successfully implement Referendum Bill No. 45." [1996 c 267 § 1.]

Finding, intent—Captions not law—Effective date—Severability—1993 c 340: See notes following RCW 77.65.010.

Intent—1987 c 202: See note following RCW 2.04.190.

Intent—1984 c 258: See note following RCW 3.34.130.

Additional notes found at www.leg.wa.gov

77.12.184 Deposit of moneys from various activities—Production of regulation booklets. (1) The department shall deposit all moneys received from the following activities into the fish, wildlife, and conservation account created in RCW 77.12.170(3):

(a) The sale of interpretive, recreational, historical, educational, and informational literature and materials;

(b) The sale of advertisements in regulation pamphlets and other appropriate mediums; and

(c) Enrollment fees in department-sponsored educational training events.

(2) Moneys collected under subsection (1) of this section shall be spent primarily for producing regulation booklets for users and for the development, production, reprinting, and distribution of informational and educational materials. The

department may also spend these moneys for necessary expenses associated with training activities, and other activities as determined by the director.

(3) Regulation pamphlets may be subsidized through appropriate advertising, but must be made available free of charge to the users.

(4) The director may enter into joint ventures with other agencies and organizations to generate revenue for providing public information and education on wildlife and hunting and fishing rules. [2020 c 148 § 7; 2009 c 333 § 31; 2000 c 252 § 1.]

Intent—Effective date—2020 c 148: See notes following RCW 77.12.170.

77.12.190 Use of moneys in the limited fish and wildlife account and fish, wildlife, and conservation account. Moneys in the limited fish and wildlife account and fish, wildlife, and conservation account created in RCW 77.12.170 may be used only for the purposes of this title, including the payment of principal and interest on bonds issued for capital projects. [2020 c 148 § 8; 2009 c 333 § 32; 1991 sp.s. c 31 § 17; 1987 c 506 § 27; 1980 c 78 § 34; 1955 c 36 § 77.12.190. Prior: 1947 c 275 § 28; Rem. Supp. 1947 § 5992-38.]

Intent—Effective date—2020 c 148: See notes following RCW 77.12.170.

Legislative findings and intent—1987 c 506: See note following RCW 77.04.020.

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.201 Counties may elect to receive an amount in lieu of taxes—County to record collections for violations of law or rules—Deposit. The legislative authority of a county may elect, by giving written notice to the director and the treasurer prior to January 1st of any year, to obtain for the following year an amount in lieu of real property taxes on game lands as provided in RCW 77.12.203. Upon the election, the county shall keep a record of all fines, forfeitures, reimbursements, and costs assessed and collected, in whole or in part, under this title for violations of law or rules adopted pursuant to this title, with the exception of the 2015-2017 and 2017-2019 fiscal biennia, and shall monthly remit an amount equal to the amount collected to the state treasurer for deposit in the state general fund. The election shall continue until the department is notified differently prior to January 1st of any year. [2017 3rd sp.s. c 1 § 983; 2016 sp.s. c 36 § 947; 2013 2nd sp.s. c 4 § 998; 2012 2nd sp.s. c 7 § 923; 2009 c 479 § 63; 1987 c 506 § 29. Prior: 1984 c 258 § 335; 1984 c 214 § 1; 1980 c 78 § 36; 1977 ex.s. c 59 § 1; 1965 ex.s. c 97 § 2.]

Effective date—2017 3rd sp.s. c 1: See note following RCW 43.41.455.

Effective date—2016 sp.s. c 36: See note following RCW 18.20.430.

Effective dates—2013 2nd sp.s. c 4: See note following RCW 2.68.020.

Effective date—2012 2nd sp.s. c 7: See note following RCW 2.68.020.

Legislative findings and intent—1987 c 506: See note following RCW 77.04.020.

Intent—1984 c 258: See note following RCW 3.34.130.

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

Additional notes found at www.leg.wa.gov

77.12.203 In lieu payments authorized—Procedure—Game lands defined. (1) Notwithstanding RCW 84.36.010 or other statutes to the contrary, the state treasurer, on behalf of the department, must distribute to counties by April 30th of each year on game lands, regardless of acreage, in each county, if requested by an election under RCW 77.12.201, an amount in lieu of real property taxes equal to that amount paid on similar parcels of open space land taxable under chapter 84.34 RCW or the greater of seventy cents per acre per year or the amount paid in 1984 plus an additional amount for control of noxious weeds equal to that which would be paid if such lands were privately owned. This amount may not be assessed or paid on department buildings, structures, facilities, game farms, fish hatcheries, water access sites, tidelands, or public fishing areas.

(2) "Game lands," as used in this section and RCW 77.12.201, means those tracts, regardless of acreage, owned in fee by the department and used for wildlife habitat and public recreational purposes. All lands purchased for wildlife habitat, public access, or recreation purposes with federal funds in the Snake River drainage basin are considered game lands regardless of acreage.

(3) This section does not apply to lands transferred after April 23, 1990, to the department from other state agencies.

(4) The county must distribute the amount received under this section in lieu of real property taxes to all property taxing districts except the state in appropriate tax code areas the same way it would distribute local property taxes from private property. The county must distribute the amount received under this section for weed control to the appropriate weed district. [2021 c 184 § 1; 2019 c 415 § 983; 2018 c 299 § 913; 2017 3rd sp.s. c 1 § 984; 2015 3rd sp.s. c 4 § 971; 2014 c 55 § 1; 2013 2nd sp.s. c 4 § 999; 2012 2nd sp.s. c 7 § 924; 2005 c 303 § 14; 1990 1st ex.s. c 15 § 11; 1984 c 214 § 2; 1980 c 78 § 37; 1965 ex.s. c 97 § 3.]

Effective date—2019 c 415: See note following RCW 28B.20.476.

Effective date—2018 c 299: See note following RCW 43.41.433.

Effective date—2017 3rd sp.s. c 1: See note following RCW 43.41.455.

Effective dates—2015 3rd sp.s. c 4: See note following RCW 28B.15.069.

Effective date—2014 c 55: "This act takes effect July 1, 2015." [2014 c 55 § 2.]

Effective dates—2013 2nd sp.s. c 4: See note following RCW 2.68.020.

Effective date—2012 2nd sp.s. c 7: See note following RCW 2.68.020.

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

Additional notes found at www.leg.wa.gov

77.12.204 Grazing lands—Fish and wildlife goals—Implementation. The department of fish and wildlife shall implement practices necessary to meet the standards developed under *RCW 79.01.295 on agency-owned and managed agricultural and grazing lands. The standards may be modified on a site-specific basis as necessary and as determined by the department of fish and wildlife to achieve the goals established under *RCW 79.01.295(1). Existing lessees shall be provided an opportunity to participate in any site-specific

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field review. Department agricultural and grazing leases issued after December 31, 1994, shall be subject to practices to achieve the standards that meet those developed pursuant to *RCW 79.01.295.

This section shall in no way prevent the department of fish and wildlife from managing its lands according to the provisions of RCW 77.04.012, 77.12.210, or rules adopted pursuant to this chapter. [2001 c 253 § 17; 2000 c 107 § 217; 1993 sp.s. c 4 § 6.]

***Reviser's note:** RCW 79.01.295 was recodified as RCW 79.13.610 pursuant to 2003 c 334 § 557.

Findings—Grazing lands—1993 sp.s. c 4: See RCW 79.13.600.

77.12.210 Department property—Management, sale. The director shall maintain and manage real or personal property owned, leased, or held by the department and shall control the construction of buildings, structures, and improvements in or on the property. The director may adopt rules for the operation and maintenance of the property.

The commission may authorize the director to sell, lease, convey, or grant concessions upon real or personal property under the control of the department. This includes the authority to sell timber, gravel, sand, and other materials or products from real property held by the department, and to sell or lease the department's real or personal property or grant concessions or rights-of-way for roads or utilities in the property. Oil and gas resources owned by the state which lie below lands owned, leased, or held by the department shall be offered for lease by the commissioner of public lands pursuant to chapter 79.14 RCW with the proceeds being deposited in the fish, wildlife, and conservation account created in RCW 77.12.170(3): PROVIDED, That the commissioner of public lands shall condition such leases at the request of the department to protect wildlife and its habitat.

If the commission determines that real or personal property held by the department cannot be used advantageously by the department, the director may dispose of that property if it is in the public interest.

If the state acquired real property with use limited to specific purposes, the director may negotiate terms for the return of the property to the donor or grantor. Other real property shall be sold to the highest bidder at public auction. After appraisal, notice of the auction shall be published at least once a week for two successive weeks in a newspaper of general circulation within the county where the property is located at least twenty days prior to sale.

Proceeds from the sales shall be deposited in the fish, wildlife, and conservation account created in RCW 77.12.170(3). [2020 c 148 § 9; 2009 c 333 § 33; 2000 c 107 § 218; 1987 c 506 § 30; 1980 c 78 § 38; 1969 ex.s. c 73 § 1; 1955 c 36 § 77.12.210. Prior: 1947 c 275 § 30; Rem. Supp. 1947 § 5992-40.]

Intent—Effective date—2020 c 148: See notes following RCW 77.12.170.

Legislative findings and intent—1987 c 506: See note following RCW 77.04.020.

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.220 Acquisition or transfer of property. For purposes of this title, the commission may make agreements

to obtain real or personal property or to transfer or convey property held by the state to the United States or its agencies or instrumentalities, units of local government of this state, public service companies, or other persons, if in the judgment of the commission and the attorney general the transfer and conveyance is consistent with public interest. For purposes of this section, "local government" means any city, town, county, special district, municipal corporation, or quasi-municipal corporation.

If the commission agrees to a transfer or conveyance under this section or to a sale or return of real property under RCW 77.12.210, the director shall certify, with the attorney general, to the governor that the agreement has been made. The certification shall describe the real property. The governor then may execute and the secretary of state attest and deliver to the appropriate entity or person the instrument necessary to fulfill the agreement. [2000 c 107 § 219; 1987 c 506 § 31; 1980 c 78 § 39; 1955 c 36 § 77.12.220. Prior: 1949 c 205 § 3; 1947 c 275 § 31; Rem. Supp. 1949 § 5992-41.]

Legislative findings and intent—1987 c 506: See note following RCW 77.04.020.

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.230 Local assessments against department property. The director may pay lawful local improvement district assessments for projects that may benefit wildlife or wildlife-oriented recreation made against lands held by the state for department purposes. The payments may be made from money appropriated from the fish, wildlife, and conservation account created in RCW 77.12.170(3) to the department. [2020 c 148 § 10; 2009 c 333 § 34; 1987 c 506 § 32; 1980 c 78 § 40; 1955 c 36 § 77.12.230. Prior: 1947 c 275 § 32; Rem. Supp. 1947 § 5992-42.]

Intent—Effective date—2020 c 148: See notes following RCW 77.12.170.

Legislative findings and intent—1987 c 506: See note following RCW 77.04.020.

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.240 Authority to take wildlife—Disposition. (1) The department may authorize the removal or killing of wildlife that is destroying or injuring property, or when it is necessary for wildlife management or research.

(2) The department shall dispose of wildlife taken or possessed by them under this title in the manner determined by the director to be in the best interest of the state. Proceeds from sales shall be deposited in the state treasury to be credited to the fish, wildlife, and conservation account created in RCW 77.12.170(3). [2020 c 148 § 11; 2009 c 333 § 63; 1989 c 197 § 1; 1987 c 506 § 33; 1980 c 78 § 41; 1955 c 36 § 77.12.240. Prior: 1947 c 275 § 33; Rem. Supp. 1947 § 5992-43.]

Intent—Effective date—2020 c 148: See notes following RCW 77.12.170.

Legislative findings and intent—1987 c 506: See note following RCW 77.04.020.

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

Additional notes found at www.leg.wa.gov

77.12.262 Fish and wildlife officers compensation insurance—Medical aid. The director shall provide compensation insurance for fish and wildlife officers, insuring these employees against injury or death in the performance of enforcement duties not covered under the workers' compensation act of the state. The beneficiaries and the compensation and benefits under the compensation insurance shall be the same as provided in chapter 51.32 RCW, and the compensation insurance also shall provide for medical aid and hospitalization to the extent and amount as provided in RCW 51.36.010 and 51.36.020. [2000 c 107 § 8; 1983 1st ex.s. c 46 § 20; 1971 ex.s. c 289 § 73; 1953 c 207 § 14. Formerly RCW 75.08.206, 43.25.047.]

Additional notes found at www.leg.wa.gov

77.12.264 Fish and wildlife officers—Relieved from active duty when injured—Compensation. The director shall relieve from active duty fish and wildlife officers who are injured in the performance of their official duties to such an extent as to be incapable of active service. While relieved from active duty, the employees shall receive one-half of their salary less any compensation received through the provisions of RCW 41.26.470, 41.40.200, 41.40.220, and 77.12.262. [2006 c 39 § 2; 2001 c 253 § 18; 2000 c 107 § 9; 1983 1st ex.s. c 46 § 22; 1957 c 216 § 1. Formerly RCW 75.08.208, 75.08.024.]

Additional notes found at www.leg.wa.gov

77.12.266 Relocation or introduction of wolves, coyotes, lynx, bobcats, and other big game—Notice and public hearing. (1) The department must provide notice and hold a public hearing prior to department personnel relocating or introducing any wolves, coyotes, lynx, bobcats, and animals defined as big game in RCW 77.08.030, where the action is intended for population enhancement.

(2)(a) The notice of the public hearing must be made at least thirty days prior to the date of the hearing. The notice must state the public hearing date, time, and location, and provide a brief explanation of the department's proposed action. The brief explanation must include the species of wildlife, the estimated number of animals, the general location where the wildlife will be released, and the potential range the wildlife is likely to roam.

(b) A press release of the notice of the public hearing must be sent to media outlets providing news services to the communities that are likely to be impacted by the wildlife's presence. The notice of the public hearing must be posted on the department's web site, and if possible, posted on a local government or community web site near where the wildlife will be relocated or introduced; and be provided in writing to the town, city, or county legislative members and the mayor or county executive of any location that is likely to be impacted by the presence of the wildlife.

(3) The public hearing must be open to the public and held within the community most likely to be impacted by the presence of the relocated or introduced wildlife. The presiding official or department personnel must present information explaining the department's proposed actions and related management of the wildlife in sufficient detail to provide an understanding of the reasons for the proposed movement and potential impacts of the action in or near the community. The

hearing must be conducted by the presiding official to afford interested persons the opportunity to present comments. Written or electronic submissions will also be accepted and included in the department's hearing record. [2018 c 212 § 1.]

77.12.272 Elk hoof disease—Program to monitor and assess causes of and potential solutions for—Washington State University college of veterinary medicine designated as state lead. Subject to the availability of amounts appropriated for this specific purpose, the legislature designates Washington State University college of veterinary medicine as the state lead in developing a program to monitor and assess causes of and potential solutions for elk hoof disease. The college must establish an elk monitoring system in southwest Washington in order to carry out this mission. In conducting this work, the college must work collaboratively with entities including the department, the state veterinarian, and any tribes with interest in participating. The college must provide regular updates, at minimum on an annual basis, to the appropriate committees of the legislature and the commission on its findings, program needs, and any recommendations. [2017 c 159 § 3.]

Finding—Required rule making—2017 c 159: See notes following RCW 77.12.047.

77.12.275 Agreements with department of defense. The commission may negotiate agreements with the United States department of defense to coordinate fishing in state waters over which the department of defense has assumed control. [1995 1st sp.s. c 2 § 7 (Referendum Bill No. 45, approved November 7, 1995); 1983 1st ex.s. c 46 § 8; 1955 c 12 § 75.08.025. Prior: 1953 c 207 § 11. Formerly RCW 75.08.025.]

Additional notes found at www.leg.wa.gov

77.12.285 Agreements with United States to protect Columbia river fish—Fish cultural stations and protective devices. (1) The commission may enter into agreements with and receive funds from the United States for the construction, maintenance, and operation of fish cultural stations, laboratories, and devices in the Columbia river basin for improvement of feeding and spawning conditions for fish, for the protection of migratory fish from irrigation projects and for facilitating free migration of fish over obstructions.

(2) The director and the department may acquire by gift, purchase, lease, easement, or condemnation the use of lands where the construction or improvement is to be carried on by the United States. [2000 c 107 § 6; 1995 1st sp.s. c 2 § 8 (Referendum Bill No. 45, approved November 7, 1995); 1993 sp.s. c 2 § 23; 1987 c 506 § 94; 1983 1st ex.s. c 46 § 12; 1955 c 12 § 75.16.060. Prior: 1949 c 112 § 52; Rem. Supp. 1949 § 5780-326. Formerly RCW 75.08.055, 75.16.060.]

Legislative findings and intent—1987 c 506: See note following RCW 77.04.020.

Additional notes found at www.leg.wa.gov

77.12.320 Agreements for purposes related to fish, shellfish, and wildlife—Acceptance of compensation, gifts, grants—Indemnification. (1) The commission may make agreements with persons, political subdivisions of this

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state, or the United States or its agencies or instrumentalities, regarding fish, shellfish, and wildlife-oriented recreation and the propagation, protection, conservation, and control of fish, shellfish, and wildlife.

(2) The director may make written agreements with the owners or lessees of real or personal property to provide for the use of the property for fish, shellfish, and wildlife-oriented recreation. The director may adopt rules governing the conduct of persons in or on the real property.

(3) The director may accept compensation for fish, shellfish, and wildlife losses or gifts or grants of personal property for use by the department.

(4) The commission may indemnify the United States and its agencies as a condition of securing federal funds for purposes of fish, shellfish, and wildlife projects. [2021 c 182 § 1; 2001 c 253 § 19; 1987 c 506 § 41; 1980 c 78 § 50; 1975 1st ex.s. c 207 § 1; 1974 ex.s. c 67 § 1; 1955 c 36 § 77.12.320. Prior: 1947 c 275 § 37; Rem. Supp. 1947 § 5992-47.]

Legislative findings and intent—1987 c 506: See note following RCW 77.04.020.

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.323 Special wildlife account—Investments. (1) There is established in the state treasury a special wildlife account. Moneys received under RCW 77.12.320 as now or hereafter amended as compensation for wildlife losses shall be deposited in the state treasury to be credited to the special wildlife account.

(2) The state treasurer may invest and reinvest the surplus as provided by RCW 43.84.080. [2020 c 148 § 12; 2012 c 187 § 7; 2009 c 333 § 35; 1987 c 506 § 42; 1982 c 10 § 15. Prior: 1981 c 3 § 43; 1980 c 78 § 51; 1975 1st ex.s. c 207 § 2.]

Intent—Effective date—2020 c 148: See notes following RCW 77.12.170.

Legislative findings and intent—1987 c 506: See note following RCW 77.04.020.

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

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77.12.325 Cooperation with Oregon to assure yields of Columbia river fish, shellfish, and wildlife. The commission may cooperate with the Oregon fish and wildlife commission in the adoption of rules to ensure an annual yield of fish, shellfish, and wildlife on the Columbia river and to prevent the taking of fish, shellfish, and wildlife at places or times that might endanger fish, shellfish, and wildlife. [2001 c 253 § 20; 1980 c 78 § 52; 1959 c 315 § 2.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.330 Exclusive fishing waters for youths. The commission may establish by rule exclusive fishing waters for minors within specified ages. [1980 c 78 § 53; 1955 c 36 § 77.12.330. Prior: 1947 c 275 § 38; Rem. Supp. 1947 § 5992-48.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.360 Withdrawal of state land from lease—Compensation. Upon written request of the department, the

department of natural resources may withdraw from lease state-owned lands described in the request. The request shall bear the endorsement of the county legislative authority if the lands were acquired under *RCW 76.12.030 or 76.12.080. Withdrawals shall conform to the state outdoor recreation plan. If the lands are held for the benefit of the common school fund or another fund, the department shall pay compensation equal to the lease value of the lands to the appropriate fund. [1980 c 78 § 54; 1969 ex.s. c 129 § 3; 1955 c 36 § 77.12.360. Prior: 1947 c 130 § 1; Rem. Supp. 1947 § 8136-10.]

*Reviser's note: RCW 76.12.030 and 76.12.080 were recodified as RCW 79.22.040 and 79.22.020, respectively, by 2003 c 334 § 245.

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.370 Withdrawal of state land from lease—County procedures, approval, hearing. Prior to the forwarding of a request needing endorsement under RCW 77.12.360, the director shall present the request to the legislative authority of the county in which the lands are located for its approval. The legislative authority, before acting on the request, may call a public hearing. The hearing shall take place within thirty days after presentation of the request to the legislative authority.

The director shall publish notice of the public hearing called by the legislative authority in a newspaper of general circulation within the county at least once a week for two successive weeks prior to the hearing. The notice shall contain a copy of the request and the time and place of the hearing.

The chair of the county legislative authority shall preside at the public hearing. The proceedings shall be informal and all persons shall have a reasonable opportunity to be heard.

Within ten days after the hearing, the county legislative authority shall endorse its decision on the request for withdrawal. The decision is final and not subject to appeal. [2013 c 23 § 239; 1987 c 506 § 43; 1980 c 78 § 55; 1955 c 36 § 77.12.370. Prior: 1947 c 130 § 2; Rem. Supp. 1947 § 8136-11.]

Legislative findings and intent—1987 c 506: See note following RCW 77.04.020.

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.380 Withdrawal of state land from lease—Actions by commissioner of public lands. Upon receipt of a request under RCW 77.12.360, the commissioner of public lands shall determine if the withdrawal would benefit the people of the state. If the withdrawal would be beneficial, the commissioner shall have the lands appraised for their lease value. Before withdrawal, the department shall transmit to the commissioner a voucher authorizing payment from the fish, wildlife, and conservation account created in RCW 77.12.170(3) in favor of the fund for which the lands are held. The payment shall equal the amount of the lease value for the duration of the withdrawal. [2020 c 148 § 13; 2009 c 333 § 36; 1987 c 506 § 44; 1980 c 78 § 56; 1955 c 36 § 77.12.380. Prior: 1947 c 130 § 3; Rem. Supp. 1947 § 8136-12.]

Intent—Effective date—2020 c 148: See notes following RCW 77.12.170.

Legislative findings and intent—1987 c 506: See note following RCW 77.04.020.

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Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.390 Withdrawal of state land from lease—Payment. Upon receipt of a voucher under RCW 77.12.380, the commissioner of public lands shall withdraw the lands from lease. The commissioner shall forward the voucher to the state treasurer, who shall draw a warrant against the fish, wildlife, and conservation account created in RCW 77.12.170(3) in favor of the fund for which the withdrawn lands are held. [2020 c 148 § 14; 2009 c 333 § 37; 1987 c 506 § 45; 1980 c 78 § 57; 1973 c 106 § 35; 1955 c 36 § 77.12.390. Prior: 1947 c 130 § 4; Rem. Supp. 1947 § 8136-13.]

Intent—Effective date—2020 c 148: See notes following RCW 77.12.170.

Legislative findings and intent—1987 c 506: See note following RCW 77.04.020.

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.395 Wolves—Conflict mitigation guidelines. The department shall implement conflict mitigation guidelines that distinguish between wolf recovery regions, identified in the 2011 wolf conservation and management plan, that are at or above the regional recovery objective and wolf recovery regions that are below the regional recovery objective. In developing conflict management [mitigation] guidelines, the department shall consider the provisions of its 2011 wolf recovery and management plan, and all regional plans must include proactive nonlethal deterrents regardless of listing status. [2019 c 450 § 2.]

Intent—Finding—2019 c 450: "(1) It is the legislature's intent to support full recovery of gray wolves in Washington state in accordance with the department of fish and wildlife's 2011 wolf recovery and management plan and state law. It is also the legislature's intent to support the livestock industry and rural lifestyles and ensure that state agencies and residents have the tools necessary to support coexistence with wolves.

(2) The wolf plan requires that the department of fish and wildlife conduct a review of the effectiveness of the plan's implementation every five years. The legislature finds that because the regional recovery goals have been exceeded in the eastern Washington recovery region, but not yet in other regions, it is timely for the department of fish and wildlife to conduct a periodic status review and recommend to the state fish and wildlife commission whether a change in status is warranted.

(3) Furthermore, the legislature recognizes that management of wolf-livestock conflict is key to both wolf recovery and public acceptance of wolves in rural areas and that as the wolf population grows, and even after it achieves recovery, stable and adequate funding for nonlethal wolf deterrence will be needed to support livestock producers and the livestock industry and minimize the need for lethal removal of wolves. As such, it is the intent of the legislature, regardless of the listing status of gray wolves, to continue to sufficiently fund nonlethal deterrents for minimizing depredation of livestock by wolves. Proactive deterrence and community collaboration, as set forth in RCW 16.76.020, are necessary to reduce conflict between wolves and livestock and will be important for maintaining the economic viability of the livestock industry, the state's wolf populations, and public acceptance of wolves in northeast Washington after wolves have recovered and have been delisted.

(4) Further, the legislature intends to expand funding and personnel resources in the department of fish and wildlife for similar nonlethal deterrent efforts to mitigate conflicts statewide, as wolves recover in the remainder of the state beyond northeast Washington." [2019 c 450 § 1.]

77.12.420 Improvement of conditions for growth of game fish. The director may spend moneys to improve natural growing conditions for fish by constructing fishways, installing screens, and removing obstructions to migratory fish. The eradication of undesirable fish shall be authorized

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by the commission. The director may enter into cooperative agreements with state, county, municipal, and federal agencies, and with private individuals for these purposes. [1987 c 506 § 46; 1980 c 78 § 59; 1955 c 36 § 77.12.420. Prior: 1947 c 127 § 1; Rem. Supp. 1947 § 5944-1.]

Legislative findings and intent—1987 c 506: See note following RCW 77.04.020.

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.451 Director may take or sell fish or shellfish—Restrictions on sale of salmon. (1) The director may take or remove any species of fish or shellfish from the waters or beaches of the state.

(2) The director may sell food fish or shellfish caught or taken during department test fishing operations.

(3) The director shall not sell inedible salmon for human consumption. Salmon and carcasses may be given to state institutions or schools or to economically depressed people, unless the salmon are unfit for human consumption. Salmon not fit for human consumption may be sold by the director for animal food, fish food, or for industrial purposes.

(4) In the sale of surplus salmon from state hatcheries, the director shall require that a portion of the surplus salmon be processed and returned to the state by the purchaser. The processed salmon shall be fit for human consumption and in a form suitable for distribution to individuals. The department shall establish the required percentage at a level that does not discourage competitive bidding for the surplus salmon. The measure of the percentage is the combined value of all of the surplus salmon sold. The department of social and health services shall distribute the processed salmon to economically depressed individuals and state institutions pursuant to rules adopted by the department of social and health services. [2015 c 225 § 115; 1990 c 36 § 1; 1985 c 28 § 1; 1983 1st ex.s. c 46 § 26; 1979 c 141 § 382; 1969 ex.s. c 16 § 2; 1965 ex.s. c 72 § 1; 1955 c 12 § 75.12.130. Prior: 1949 c 112 § 41; Rem. Supp. 1949 § 5780-315. Formerly RCW 75.08.255, 75.12.130.]

77.12.453 Wanapum (Sokulk) Indians—Permits to take salmon and other freshwater food fish. The director may issue permits to members of the Wanapum band of Indians to take salmon and other freshwater food fish for ceremonial and subsistence purposes. The department shall establish the areas in which the permits are valid and shall regulate the times for and manner of taking the salmon and other freshwater food fish. This section does not create a right to fish commercially. [2018 c 235 § 14; 1983 1st ex.s. c 46 § 27; 1981 c 251 § 2. Formerly RCW 75.08.265, 75.12.310.]

Legislative findings—1981 c 251: "The legislature finds that the Sokulk Indians, otherwise known as the Wanapum band of Indians, have made a significant effort to maintain their traditional tribal culture, including the activity of taking salmon for ceremonial and subsistence purposes. The legislature further finds that previously the state has encouraged ceremonial and subsistence fishing by the Wanapums by chapter 210, Laws of 1939 and other permission. Therefore, the intent of the legislature in enacting RCW 75.08.265 is to recognize the cultural importance of salmon fishing to only the Wanapum Indians by authorizing these people a ceremonial and subsistence fishery, while also preserving the state's ability to conserve and manage the salmon resource." [1983 1st ex.s. c 46 § 62; 1981 c 251 § 1. Formerly RCW 75.12.300.]

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77.12.455 Prevention and suppression of diseases and pests. The commission may prohibit the introduction, transportation or transplanting of fish, shellfish, organisms, material, or other equipment which in the commission's judgment may transmit any disease or pests affecting fish or shellfish. [2001 c 253 § 22; 1995 1st sp.s. c 2 § 16 (Referendum Bill No. 45, approved November 7, 1995); 1983 1st ex.s. c 46 § 29; 1955 c 12 § 75.16.030. Prior: 1949 c 112 § 43; Rem. Supp. 1949 § 5780-317. Formerly RCW 75.08.285, 75.16.030.]

Additional notes found at www.leg.wa.gov

77.12.459 Release and recapture of salmon or steelhead prohibited. A person other than the United States, an Indian tribe recognized as such by the federal government, the state, a subdivision of the state, or a municipal corporation or an agency of such a unit of government shall not release salmon or steelhead trout into the public waters of the state and subsequently to recapture and commercially harvest such salmon or trout. This section shall not prevent any person from rearing salmon or steelhead trout in pens or in a confined area under circumstances where the salmon or steelhead trout are confined and never permitted to swim freely in open water. [1998 c 190 § 74; 1985 c 457 § 12. Formerly RCW 75.08.300.]

77.12.465 Abandoned or derelict vessels. The director has the authority, subject to the processes and limitation outlined in chapter 79.100 RCW, to store, strip, use, auction, sell, salvage, scrap, or dispose of an abandoned or derelict vessel found on or above publicly or privately owned aquatic lands within the jurisdiction of the department. [2002 c 286 § 19.]

Additional notes found at www.leg.wa.gov

77.12.467 Wildlife rehabilitation program—Requirements to receive funding—Reports accounting for all expenditures of state funds—Permitted expenditures—Adoption of rules. (1) The director shall establish a wildlife rehabilitation program to help support the critical role licensed wildlife rehabilitators play in protecting the public by capturing, testing for disease, and caring for sick, injured, and orphaned wildlife in Washington state. The director shall contract for wildlife rehabilitation services with up to four people in each of the department's six administrative regions. Applicants may submit only one request every two years and must reside in the administrative region for which they have applied. The contracts must be for a term of two years.

(2) In order to receive funding, the wildlife rehabilitator must: (a) Be properly licensed in wildlife rehabilitation under state and federal law; and (b) furnish information concerning his or her identity, including fingerprints for submission to the Washington state patrol to include a national criminal background check. The applicant must pay for the cost of the criminal background check. If the background check reveals that the applicant has been convicted of a felony or gross misdemeanor, the applicant is ineligible to receive funding.

(3) The department must require that contractors submit detailed reports accounting for all expenditures of state funds. The reports must be submitted to the department on a quar-

terly basis. The department may require the contractor to submit to an inspection of the rehabilitation facility to ensure compliance with department rules governing wildlife rehabilitation. Expenditures that are permitted under this program as they specifically relate to wildlife rehabilitation include: (a) Reimbursement for diagnostic and lab support services; (b) purchase and maintenance of proper restraints and equipment used in the capture, transportation, temporary housing, and release of wildlife; (c) reimbursement of contracted veterinary services; (d) reimbursement of the cost of food, medication, and other consumables; and (e) reimbursement of the cost of continuing education. The department shall give priority to applications submitted that provide for the rehabilitation of endangered or threatened species. Funds may not be used to rehabilitate either nonnative species or nuisance animals, or both, including, but not limited to the following: Eastern gray squirrels (*Sciurus carolinensis*); opossum (*Didelphis virginiana*); raccoons (*Procyon lotor*); striped skunk (*Mephitis mephitis*); spotted skunk (*Spilogale putorius*); Eastern cottontail rabbit (*Sylvilagus floridanus*); domestic rabbit (*Oryctolagus cuniculus*); European starling (*Sturnus vulgaris*); and house sparrow (*Passer domesticus*).

(4) The department may adopt any rules as are necessary to carry out this section. [2007 c 246 § 4.]

Finding—2007 c 246: "The legislature finds that licensed wildlife rehabilitators often work closely with local law enforcement, animal control officers, wildlife enforcement officers, and wildlife biologists at the state and federal levels to aid in the safe capture, testing for disease, medical treatment, rehabilitation, and release of wildlife. The state recognizes the critical role licensed wildlife rehabilitators play in capturing and caring for the sick, injured, and orphaned wildlife of Washington state." [2007 c 246 § 1.]

77.12.469 Renewal of wildlife rehabilitation licenses—Adoption of rules. The department must develop a process for renewing wildlife rehabilitation licenses. All wildlife rehabilitation licenses issued by the department prior to January 1, 2006, must be renewed by January 1, 2010. The department may adopt rules as necessary to implement this section. [2007 c 246 § 5.]

Finding—2007 c 246: See note following RCW 77.12.467.

77.12.471 Wildlife rehabilitation account. The wildlife rehabilitation account is created in the state treasury. All receipts from moneys directed to the account from RCW 46.68.435 must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for the support of the wildlife rehabilitation program created under RCW 77.12.467. [2010 c 161 § 1160; 2007 c 246 § 3.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Finding—2007 c 246: See note following RCW 77.12.467.

77.12.475 Fish and wildlife equipment revolving account. (1) The fish and wildlife equipment revolving account is created in the custody of the state treasurer. The department must reimburse the account for all moneys expended from the account. Reimbursements may be made with moneys appropriated to the department or from other moneys otherwise available to the department. All moneys generated by the use or repair of vehicles, water vessels, and

heavy equipment or generated by the sale or surplusing of vehicles, water vessels, and heavy equipment must be deposited in the account. The department's reimbursements may be prorated over the useful life of the vehicle, water vessel, or heavy equipment acquired with moneys from the account.

(2) Expenditures from the account may be used only for the purchase or lease of vehicles, water vessels, and heavy equipment, to include the payment of costs for the operation, repair, and maintenance of the vehicles, water vessels, and heavy equipment.

(3) Only the director of fish and wildlife or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(4) For the purposes of this section, the terms and charges for the intra-agency use of vehicles, water vessels, or heavy equipment or for the disposal through sale of vehicles, water vessels, or heavy equipment is solely within the discretion of the department and the department's determination of the terms, charges, or sale price is considered a reasonable term, charge, or sale price. [2009 c 368 § 1.]

77.12.540 Public shooting grounds—Effect of filing—Use for booming. Upon filing a certificate with the commissioner of public lands that shows that lands will be used for public shooting grounds by the department, the lands shall be withdrawn from sale or lease and then may be used as public shooting grounds under control of the department. The commissioner of public lands may also use the lands for booming purposes. [1980 c 78 § 128; 1955 c 36 § 77.40.080. Prior: 1945 c 179 § 2; Rem. Supp. 1945 § 7993-5b. Formerly RCW 77.40.080.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.550 Tidelands used as public shooting grounds—Diversion. Tidelands granted to the department to be used as public shooting grounds shall revert to the state if used for another purpose. The department shall certify the reversion to the commissioner of public lands who shall then supervise and control the lands as provided in Title 79 RCW. [1980 c 78 § 126; 1955 c 36 § 77.40.050. Prior: 1941 c 190 § 3; Rem. Supp. 1941 § 7993-8. Formerly RCW 77.40.050.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.560 Tidelands used as public shooting grounds—Rules. The commission may adopt rules regarding the use of the tidelands as shooting grounds. [1980 c 78 § 127; 1955 c 36 § 77.40.060. Prior: 1941 c 190 § 4; Rem. Supp. 1941 § 7993-9. Formerly RCW 77.40.060.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.570 Game farm licenses—Rules—Exemption. The commission shall establish the qualifications and conditions for issuing a game farm license. The director shall adopt rules governing the operation of game farms. Private sector cultured aquatic products as defined in RCW 15.85.020 are exempt from regulation under this section. [1987 c 506 § 49;

1985 c 457 § 22; 1980 c 78 § 98; 1975 1st ex.s. c 15 § 2; 1970 ex.s. c 29 § 14; 1955 c 36 § 77.28.020. Prior: 1947 c 275 § 82; Rem. Supp. 1947 § 5992-91. Formerly RCW 77.28.020.]

Legislative findings and intent—1987 c 506: See note following RCW 77.04.020.

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.580 Game farms—Authority to dispose of eggs.

A licensed game farmer may purchase, sell, give away, or dispose of the eggs of game birds or game fish lawfully possessed as provided by rule of the director. [1987 c 506 § 50; 1980 c 78 § 99; 1955 c 36 § 77.28.070. Prior: 1947 c 275 § 87; Rem. Supp. 1947 § 5992-96. Formerly RCW 77.28.070.]

Legislative findings and intent—1987 c 506: See note following RCW 77.04.020.

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.590 Game farms—Tagging of products—

Exemption. Wildlife given away, sold, or transferred by a licensed game farmer shall have attached to each wildlife member, package, or container, a tag, seal, or invoice as required by rule of the director. Private sector cultured aquatic products as defined in RCW 15.85.020 are exempt from regulation under this section. [1987 c 506 § 51; 1985 c 457 § 23; 1980 c 78 § 100; 1955 c 36 § 77.28.080. Prior: 1947 c 275 § 88; Rem. Supp. 1947 § 5992-97. Formerly RCW 77.28.080.]

Legislative findings and intent—1987 c 506: See note following RCW 77.04.020.

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.600 Game farms—Shipping of wildlife—

Exemption. A common carrier may transport wildlife shipped by a licensed game farmer if the wildlife is tagged, sealed, or invoiced as provided in RCW 77.12.590. Packages containing wildlife shall have affixed to them tags or labels showing the name of the licensee and the consignee. For purposes of this section, wildlife does not include private sector cultured aquatic products as defined in RCW 15.85.020. However, if a means of identifying such products is required by rules adopted under RCW 15.85.060, this exemption from the definition of wildlife applies only if the aquatic products are identified in conformance with those rules. [1985 c 457 § 24; 1980 c 78 § 101; 1955 c 36 § 77.28.090. Prior: 1947 c 275 § 89; Rem. Supp. 1947 § 5992-98. Formerly RCW 77.28.090.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.610 Check stations—Purpose. The purposes of RCW 77.12.610 through 77.12.630 are to facilitate the department's gathering of biological data for managing wildlife, fish, and shellfish resources of this state and to protect these resources by assuring compliance with Title 77 RCW, and rules adopted thereunder, in a manner designed to minimize inconvenience to the public. [2000 c 107 § 225; 1982 c 155 § 1.]

(2021 Ed.)

77.12.620 Check stations—Stopping for inspection.

The department is authorized to require hunters and fishers occupying a motor vehicle approaching or entering a check station to stop and produce for inspection: (1) Any wildlife, fish, shellfish, or seaweed in their possession; (2) licenses, permits, tags, stamps, or catch record cards, required under Title 77 RCW, or rules adopted thereunder. For these purposes, the department is authorized to operate check stations which shall be plainly marked by signs, operated by at least one uniformed fish and wildlife officer, and operated in a safe manner. [2013 c 23 § 240; 2000 c 107 § 226; 1982 c 155 § 2.]

77.12.630 Check stations—Other inspections, powers.

The powers conferred by RCW 77.12.610 through 77.12.630 are in addition to all other powers conferred by law upon the department. Nothing in RCW 77.12.610 through 77.12.630 shall be construed to prohibit the department from operating wildlife information stations at which persons shall not be required to stop and report, or from executing arrests, searches, or seizures otherwise authorized by law. [2000 c 107 § 227; 1982 c 155 § 4.]

77.12.650 Protection of bald eagles and their habitats—Cooperation required.

The department shall cooperate with other local, state, and federal agencies and governments to protect bald eagles and their essential habitats through existing governmental programs, including but not limited to:

- (1) The natural heritage program managed by the department of natural resources under chapter 79.70 RCW;
- (2) The natural area preserve program managed by the department of natural resources under chapter 79.70 RCW;
- (3) The shoreline management master programs adopted by local governments and approved by the department of ecology under chapter 90.58 RCW. [1987 c 506 § 52; 1984 c 239 § 2.]

Legislative findings and intent—1987 c 506: See note following RCW 77.04.020.

Additional notes found at www.leg.wa.gov

77.12.655 Habitat buffer zones for bald eagles—

Rules. The department, in accordance with chapter 34.05 RCW, shall adopt and enforce necessary rules defining the extent and boundaries of habitat buffer zones for bald eagles. Rules shall take into account the need for variation of the extent of the zone from case to case, and the need for protection of bald eagles. The rules shall also establish guidelines and priorities for purchase or trade and establishment of conservation easements and/or leases to protect such designated properties. The department shall also adopt rules to provide adequate notice to property owners of their options under RCW 77.12.650 and this section. [2000 c 107 § 228; 1990 c 84 § 3; 1984 c 239 § 3.]

Additional notes found at www.leg.wa.gov

77.12.670 Migratory bird permit/migratory bird license validations—Deposit and use of revenues.

(1) Beginning July 1, 2011, the department, after soliciting recommendations from the public, shall select the design for the *migratory bird stamp.

(2) All revenue derived from the sale of migratory bird license validations or stamps by the department to any person hunting waterfowl or to any stamp collector shall be deposited in the limited fish and wildlife account and shall be used only for that portion of the cost of printing and production of the stamps for migratory waterfowl hunters as determined by subsection (4) of this section, and for those migratory waterfowl projects specified by the director of the department for the acquisition and development of migratory waterfowl habitat in the state and for the enhancement, protection, and propagation of migratory waterfowl in the state. Migratory bird license validation and stamp funds may not be used on lands controlled by private hunting clubs or on private lands that charge a fee for public access. Migratory bird license validation and stamp funds may be used for migratory waterfowl projects on private land where public hunting is provided by written permission or on areas established by the department as waterfowl hunting closures.

(3) All revenue derived from the sale of the license validation and stamp by the department to persons hunting solely nonwaterfowl migratory birds shall be deposited in the limited fish and wildlife account and shall be used only for that portion of the cost of printing and production of the stamps for nonwaterfowl migratory bird hunters as determined by subsection (4) of this section, and for those nonwaterfowl migratory bird projects specified by the director for the acquisition and development of nonwaterfowl migratory bird habitat in the state and for the enhancement, protection, and propagation of nonwaterfowl migratory birds in the state.

(4) With regard to the revenue from license validation and stamp sales that is not the result of sales to stamp collectors, the department shall determine the proportion of migratory waterfowl hunters and solely nonwaterfowl migratory bird hunters by using the yearly migratory bird hunter harvest information program survey results or, in the event that these results are not available, other similar survey results. A two-year average of the most recent survey results shall be used to determine the proportion of the revenue attributed to migratory waterfowl hunters and the proportion attributed to solely nonwaterfowl migratory bird hunters for each fiscal year. For fiscal year 1998-99 and for fiscal year 1999-2000, ninety-six percent of the stamp revenue shall be attributed to migratory waterfowl hunters and four percent of the stamp revenue shall be attributed to solely nonwaterfowl migratory game hunters.

(5) Acquisition shall include but not be limited to the acceptance of gifts of real estate or any interest therein or the rental, lease, or purchase of real estate or any interest therein. If the department acquires any fee interest, leasehold, or rental interest in real property under this section, it shall allow the general public reasonable access to that property and shall, if appropriate, ensure that the deed or other instrument creating the interest allows such access to the general public. If the department obtains a covenant in real property in its favor or an easement or any other interest in real property under this section, it shall exercise its best efforts to ensure that the deed or other instrument creating the interest grants to the general public in the form of a covenant running with the land reasonable access to the property. The private landowner from whom the department obtains such a covenant or easement shall retain the right of granting access to

the lands by written permission, but may not charge a fee for access.

(6) The department may produce *migratory bird stamps in any given year in excess of those necessary for sale in that year. The excess stamps may be sold to the public. [2020 c 148 § 15; 2011 1st sp.s. c 21 § 15; 2002 c 283 § 2; 1998 c 191 § 32; 1987 c 506 § 53; 1985 c 243 § 4.]

***Reviser's note:** The term "migratory bird stamp" was changed to "migratory bird permit" pursuant to 2011 c 339 § 2.

Intent—Effective date—2020 c 148: See notes following RCW 77.12.170.

Effective date—2011 1st sp.s. c 21: See note following RCW 72.23.025.

Legislative findings and intent—1987 c 506: See note following RCW 77.04.020.

Additional notes found at www.leg.wa.gov

77.12.690 Annual migratory bird permit design—Administration, sale, and distribution—Deposit and use of funds. (1) The director is responsible for the selection of the annual *migratory bird stamp design. The department shall create collector art prints and related artwork, utilizing the same design. The administration, sale, distribution, and other matters relating to the prints and sales of stamps with prints and related artwork shall be the responsibility of the department.

(2) The total amount brought in from the sale of prints and related artwork shall be deposited in the limited fish and wildlife account created in RCW 77.12.170(1). The costs of producing and marketing of prints and related artwork shall be paid out of the total amount brought in from sales of those same items. Net funds derived from the sale of prints and related artwork shall be used by the director to contract with one or more appropriate individuals or nonprofit organizations for the development of waterfowl propagation projects within Washington which specifically provide waterfowl for the Pacific flyway. The department shall not contract with any individual or organization that obtains compensation for allowing waterfowl hunting except if the individual or organization does not permit hunting for compensation on the subject property. [2020 c 148 § 16; 2011 1st sp.s. c 21 § 16; 2009 c 333 § 38. Prior: 1998 c 245 § 158; 1998 c 191 § 33; 1987 c 506 § 55; 1985 c 243 § 6.]

***Reviser's note:** The term "migratory bird stamp" was changed to "migratory bird permit" pursuant to 2011 c 339 § 2.

Intent—Effective date—2020 c 148: See notes following RCW 77.12.170.

Effective date—2011 1st sp.s. c 21: See note following RCW 72.23.025.

Legislative findings and intent—1987 c 506: See note following RCW 77.04.020.

Additional notes found at www.leg.wa.gov

77.12.702 Rockfish research and stock assessment program—Report to the legislature—Rockfish research account. (1) The department is directed to develop and implement a rockfish research and stock assessment program. Using funds from the rockfish research account created in subsection (2) of this section, the department must conduct Puget Sound basin and coastal surveys with new and existing technology to estimate the current abundance and future recovery of rockfish populations and other groundfish spe-

cies. The stock assessment must include an evaluation of the potential for marine fish enhancement. Beginning December 2008, and every two years thereafter, the department shall report to the appropriate committees of the legislature on the status of the stock assessment program.

(2) The rockfish research account is created in the custody of the state treasurer. All receipts from surcharges assessed on commercial and recreational fishing licenses for the purposes of rockfish research must be deposited into the account. Expenditures from the account may be used only for rockfish research, including stock assessments. Only the director of the department or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. [2007 c 442 § 2.]

Findings—Intent—2007 c 442: "(1) The legislature finds that:

(a) Seven rockfish stocks, including canary and yelloweye rockfish, have been designated under federal law by the national marine fisheries services as overfished on the west coast.

(b) The department of fish and wildlife has classified certain rockfish species within Puget Sound as critically depressed. These common species of rockfish have undergone dramatic declines in Puget Sound and the coast during the past three decades.

(c) The Pacific fishery management council and the department of fish and wildlife have eliminated the directed commercial fisheries and greatly reduced the recreational fishing opportunity for these species.

(d) Due to the interactions of these depleted stocks with the healthier ones, commercial and recreational fisheries have been severely constrained in recent years in order to rebuild the populations of these overfished rockfish. For many of these stocks there have been no recent stock assessments, or the current assessments are based on poor data. Improved survey information is essential for assessing abundance and to monitor progress toward rebuilding efforts on the coast and in Puget Sound.

(e) Department of fish and wildlife staff have been developing underwater robot technology or remote operated vehicles to scientifically estimate the abundance of rockfish populations in both the nearshore and in deep waters. These new assessment techniques, coupled with existing bottom trawl surveys, will be used to estimate current abundance and future recovery of rockfish populations along the coast of Washington and in Puget Sound.

(2) Therefore, the legislature intends to implement a targeted surcharge on commercial licenses issued by the department of fish and wildlife that provides for the retention or landing of ground fish, and a targeted surcharge on recreational saltwater fishing licenses. Funds derived from the surcharge will be used by the department of fish and wildlife solely for the purpose of conducting rockfish research and stock assessments." [2007 c 442 § 1.]

Additional notes found at www.leg.wa.gov

77.12.722 Canada goose hunting—Season or bag limit restriction. For the purposes of establishing a season or bag limit restriction on Canada goose hunting, the commission shall not consider leg length or bill length of dusky Canada geese (*Branta canadensis occidentalis*). [2000 c 107 § 259; 1998 c 190 § 119; 1996 c 207 § 3; 1987 c 506 § 59; 1983 c 3 § 196; 1981 c 310 § 3; 1980 c 78 § 70; 1977 c 44 § 1; 1955 c 36 § 77.16.020. Prior: 1947 c 275 § 41; Rem. Supp. 1947 § 5992-50. Formerly RCW 77.16.020.]

Intent—1996 c 207: See note following RCW 77.08.010.

Legislative findings and intent—1987 c 506: See note following RCW 77.04.020.

Effective dates—Legislative intent—1981 c 310: See notes following RCW 77.12.170.

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

(2021 Ed.)

77.12.732 Transfer of ownership of department-owned vessel—Review of vessel's physical condition. (1) Prior to transferring ownership of a department-owned vessel, the department shall conduct a thorough review of the physical condition of the vessel, the vessel's operating capability, and any containers and other materials that are not fixed to the vessel.

(2) If the department determines that the vessel is in a state of advanced deterioration or poses a reasonably imminent threat to human health or safety, including a threat of environmental contamination, the department may: (a) Not transfer the vessel until the conditions identified under this subsection have been corrected; or (b) permanently dispose of the vessel by landfill, deconstruction, or other related method.

(3) Vessels taken into custody under chapter 79.100 RCW are not subject to this section or RCW 77.12.734. [2013 c 291 § 9.]

77.12.734 Transfer of ownership of department-owned vessel—Further requirements. (1) Following the inspection required under RCW 77.12.732 and prior to transferring ownership of a department-owned vessel, the department shall obtain the following from the transferee:

(a) The purposes for which the transferee intends to use the vessel; and

(b) Information demonstrating the prospective owner's intent to obtain legal moorage following the transfer, in the manner determined by the department.

(2)(a) The department shall remove any containers or other materials that are not fixed to the vessel and contain hazardous substances, as defined under RCW 70A.305.020.

(b) However, the department may transfer a vessel with:

(i) Those containers or materials described under (a) of this subsection where the transferee demonstrates to the department's satisfaction that the container's or material's presence is consistent with the anticipated use of the vessel; and

(ii) A reasonable amount of fuel as determined by the department, based on factors including the vessel's size, condition, and anticipated use of the vessel, including initial destination following transfer.

(c) The department may consult with the department of ecology in carrying out the requirements of this subsection.

(3) Prior to sale, and unless the vessel has a title or valid marine document, the department is required to apply for a certificate of title for the vessel under RCW 88.02.510 and register the vessel under RCW 88.02.550. [2021 c 65 § 81; 2013 c 291 § 10.]

Explanatory statement—2021 c 65: See note following RCW 53.54.030.

77.12.755 Ranked inventory of fish passage barriers. In coordination with the department of natural resources and lead entity groups, the department must establish a ranked inventory of fish passage barriers on land owned by small forestland owners based on the principle of fixing the worst first within a watershed consistent with the fish passage priorities of the forest and fish report. The department shall first gather and synthesize all available existing information about the locations and impacts of fish passage barriers in Wash-

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ington. This information must include, but not be limited to, the most recently available limiting factors analysis conducted pursuant to RCW 77.85.060(2), the stock status information contained in the department of fish and wildlife salmonid stock inventory (SASSI), the salmon and steelhead habitat inventory and assessment project (SSHIAP), and any comparable science-based assessment when available. The inventory of fish passage barriers must be kept current and at a minimum be updated by the beginning of each calendar year. Nothing in this section grants the department or others additional right of entry onto private property. [2003 c 311 § 10.]

Findings—Effective date—2003 c 311: See notes following RCW 76.09.020.

77.12.760 Steelhead trout fishery. Steelhead trout shall be managed solely as a recreational fishery for non-Indian fishers under the rule-setting authority of the fish and wildlife commission.

Commercial non-Indian steelhead fisheries are not authorized. [2013 c 23 § 241; 1993 sp.s. c 2 § 78.]

Additional notes found at www.leg.wa.gov

77.12.765 Tilton and Cowlitz rivers—Proposals to reinstate salmon and steelhead. The director shall develop proposals to reinstate the natural salmon and steelhead trout fish runs in the Tilton and upper Cowlitz rivers in accordance with RCW 77.04.120(3). [2000 c 107 § 206; 1993 sp.s. c 2 § 65; 1985 c 208 § 2. Formerly RCW 77.04.100.]

Additional notes found at www.leg.wa.gov

77.12.790 Eastern Washington pheasant enhancement program—Purpose. There is created within the department the eastern Washington pheasant enhancement program. The purpose of the program is to improve the harvest of pheasants by releasing pen-reared rooster pheasants on sites accessible for public hunting and by providing grants for habitat enhancement on public or private lands under agreement with the department. The department may either purchase rooster pheasants from private contractors, or produce rooster pheasants from department-sanctioned cooperative projects, whichever is less expensive, provided that the pheasants released meet minimum department standards for health and maturity. Any surplus hen pheasants from pheasant farms or projects operated by the department or the department of corrections for this enhancement program shall be made available to landowners who voluntarily open their lands to public pheasant hunting. Pheasants produced for the eastern Washington pheasant enhancement program must not detrimentally affect the production or operation of the department's western Washington pheasant release program. The release of pheasants for hunting purposes must not conflict with or supplant other department efforts to improve upland bird habitat or naturally produced upland birds. [1997 c 422 § 2.]

Findings—1997 c 422: "The legislature finds that pheasant populations in eastern Washington have greatly decreased from their historic high levels and that pheasant hunting success rates have plummeted. The number of pheasant hunters has decreased due to reduced hunting success. There is an opportunity to enhance the pheasant population by release of pen-reared pheasants and habitat enhancements to create increased hunting opportunities on publicly owned and managed lands." [1997 c 422 § 1.]

77.12.800 Pheasant hunting—Opportunities for juvenile hunters. The commission must establish special pheasant hunting opportunities for juvenile hunters in eastern Washington for the 1998 season and future seasons. [1997 c 422 § 3.]

Findings—1997 c 422: See note following RCW 77.12.790.

77.12.810 Small game hunting license—Disposition of fee. As provided in RCW 77.32.440, a portion of each small game hunting license fee shall be deposited in the eastern Washington pheasant enhancement account created in RCW 77.12.820. [1998 c 191 § 30; 1997 c 422 § 4.]

Findings—1997 c 422: See note following RCW 77.12.790.

Additional notes found at www.leg.wa.gov

77.12.820 Eastern Washington pheasant enhancement account—Created—Use of moneys—Report to the legislature. The eastern Washington pheasant enhancement account is created in the custody of the state treasurer. All receipts under RCW 77.12.810 must be deposited in the account. Moneys in the account are subject to legislative appropriation and shall be used for the purpose of funding the eastern Washington pheasant enhancement program. The department may use moneys from the account to improve pheasant habitat or to purchase or produce pheasants. The department must continue to release rooster pheasants in eastern Washington. The eastern Washington pheasant enhancement account funds must not be used for the purchase of land. The account may be used to offer grants to improve pheasant habitat on public or private lands that are open to public hunting. The department may enter partnerships with private landowners, nonprofit corporations, cooperative groups, and federal or state agencies for the purposes of pheasant habitat enhancement in areas that will be available for public hunting. The department shall submit an annual report to the appropriate committees of the legislature by December 1st regarding the department's eastern Washington pheasant activities. [2009 c 333 § 52; 1997 c 422 § 5.]

Findings—1997 c 422: See note following RCW 77.12.790.

77.12.850 Definitions. The definitions in this section apply throughout RCW 77.12.850 through 77.12.860 unless the context clearly requires otherwise.

(1) "Salmon" means all species of the genus *Oncorhynchus*, except those classified as game fish in this title, and includes:

Scientific Name	Common Name
<i>Oncorhynchus tshawytscha</i>	Chinook salmon
<i>Oncorhynchus kisutch</i>	Coho salmon
<i>Oncorhynchus keta</i>	Chum salmon
<i>Oncorhynchus gorbuscha</i>	Pink salmon
<i>Oncorhynchus nerka</i>	Sockeye salmon

(2) "Department" means the department of fish and wildlife.

(3) "Stamp" means the stamp created under the Washington salmon stamp program and the Washington junior salmon stamp program, created in RCW 77.12.850 through 77.12.860. [2011 1st sp.s. c 21 § 20; 1999 c 342 § 2.]

Effective date—2011 1st sp.s. c 21: See note following RCW 72.23.025.

Finding—1999 c 342: "The legislature finds that salmon recovery in Washington state will involve everyone and will require funds to accomplish recovery measures. Several species of salmon in Washington are, or are expected to be, listed as threatened or endangered under the federal endangered species act. At present, these species include chinook, chum, bull trout and coho. To bring attention to the importance of the recovery of salmon and their place in Washington's heritage, raise funds for salmon recovery projects, and involve citizens of all ages, the Washington salmon stamp and Washington junior salmon stamp programs are created." [1999 c 342 § 1.]

77.12.852 Washington salmon stamp program—Creation. (1) The Washington salmon stamp program is created in the department. The purpose of the program is the creation of a stamp that will portray a salmonid species native to Washington and will be used for stamps, prints, and posters that can be sold in a wide range of prices and editions to appeal to citizens and collectors interested in supporting salmon restoration. The proceeds from the sale of the Washington salmon stamp shall be used for protection, preservation, and restoration of salmonid habitat in Washington.

(2) Every year the department will announce competition, open to all Washington artists, for the creation of the year's Washington salmon stamp. The department will market the stamp and prints through a wide distribution method including web sites, license sites, and at public events.

(3) The winning artist will receive a monetary award and a certain number of artist proof prints. [1999 c 342 § 3.]

Finding—1999 c 342: See note following RCW 77.12.850.

77.12.854 Washington junior salmon stamp program—Creation. (1) The Washington junior salmon stamp program is created in the department. The purpose of the program is the creation of a stamp that will portray a salmonid species native to Washington and will be used for stamps, prints, and posters that can be sold in a wide range of prices and editions to appeal to citizens and collectors interested in supporting salmon restoration.

(2) Every year the department will announce a competition for the Washington junior salmon stamp program among Washington K-12 students. The top winner will receive a scholarship award. [1999 c 342 § 4.]

Finding—1999 c 342: See note following RCW 77.12.850.

77.12.858 Deposit of receipts—Expenditures. All receipts from the salmon stamp program created under RCW 77.12.850 through 77.12.860 must be deposited into the regional fisheries enhancement salmonid recovery account created under RCW 77.95.130. Expenditures from the account may be used only for the purposes specified in RCW 77.95.130 and chapter 342, Laws of 1999. The department shall report biennially to the legislature on the amount of money the salmon stamp program has generated. [2000 c 107 § 230; 1999 c 342 § 6.]

Finding—1999 c 342: See note following RCW 77.12.850.

77.12.860 Stamp design—Department's rule-making authority. The department is granted the authority to establish by rule the method for selecting appropriate designs for the Washington salmon stamp program and Washington junior salmon stamp program. The stamp shall be designed

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and produced in accordance with department rules. [1999 c 342 § 7.]

Finding—1999 c 342: See note following RCW 77.12.850.

77.12.865 Derelict fishing gear—Guidelines for removal and disposal. (1) As used in this section and RCW 77.12.870, "derelict fishing gear" includes lost or abandoned fishing nets, fishing lines, and other commercial and recreational fishing equipment. The term does not include lost or abandoned vessels or shellfish pots.

(2) The department, in partnership with the Northwest straits commission, the department of natural resources, and other interested parties, must publish guidelines for the safe removal and disposal of derelict fishing gear. The guidelines may be updated as deemed necessary by the department. The guidelines must be made available to any person interested in derelict fishing gear removal.

(3) Derelict fishing gear removal conducted in accordance with the guidelines prepared in subsection (2) of this section is not subject to permitting under RCW 77.55.021. [2010 c 193 § 7; 2005 c 146 § 1004; 2002 c 20 § 2.]

Finding—Purpose—2002 c 20: "The legislature finds that fishing gear that is lost or abandoned may continue to catch marine organisms long after the gear is lost. The purpose of this act is to develop safe, effective methods to remove derelict fishing gear, eliminate regulatory barriers to gear removal, and discourage future losses of fishing gear." [2002 c 20 § 1.]

Additional notes found at www.leg.wa.gov

77.12.870 Derelict fishing gear and shellfish pots database—Reporting requirements. (1) The department, in partnership with the Northwest straits commission, the department of natural resources, and other interested parties, must create and ensure the maintenance of a database of known derelict fishing gear and shellfish pots, including the type of gear and its location.

(2) A person who loses or abandons commercial net fishing gear within the waters of the state is required to report the location of the loss and the type of gear lost to the department within twenty-four hours of the loss.

(3) A person who loses or abandons shellfish pots within the waters of the state is encouraged to report the location of the loss and the type of gear lost to the department. [2012 c 190 § 2; 2010 c 193 § 8; 2009 c 333 § 21; 2002 c 20 § 3.]

Findings—2012 c 190: "(1) The legislature finds that derelict fishing gear poses a serious threat to human life, the health of the state's marine and freshwater ecosystems, and numerous species of birds, fish, marine mammals, and shellfish. Derelict fishing gear entrap and kills for decades and threatens endangered species, including federal endangered species act-listed salmon, steelhead, Puget Sound rockfish, green sturgeon, and marbled murrelet. In Puget Sound, estimates from the Northwest straits initiative indicate that derelict commercial fishing nets were killing approximately one thousand two hundred marine mammals, twenty-one thousand birds, and sixty-seven thousand fish per year.

(2) The legislature further finds that while significant progress has been made to remove historic accumulations of lost and abandoned commercial fishing nets in Puget Sound, reforms are needed to stem the ongoing accumulation of commercial fishing nets and commercial and recreational shellfish pots in both marine and freshwater environments. While the Northwest straits initiative received a one-time federal grant of over four million five hundred thousand dollars to remove high priority derelict fishing nets from Puget Sound, no long-term source of funding is currently available for the continued removal of derelict fishing nets or the removal of an estimated twelve thousand derelict shellfish pots. Insufficient funding and information is available to confirm and quantify the likely presence of derelict fishing gear in other state waters. These and other factors increase the need for a mandatory reporting system to quantify ongoing accumulations of lost or

abandoned commercial fishing nets and recreational or commercial shellfish pots.

(3) The legislature further finds that the department of fish and wildlife is working cooperatively with the department of natural resources and the Northwest straits initiative to maintain a statewide database of derelict fishing gear. However, despite recent known instances of commercial fishing net losses, only two reports of lost commercial fishing nets have been made by fishers to the department of fish and wildlife database under the current voluntary reporting system since its inception in 2003.

(4) The legislature further finds that instituting a mandatory reporting requirement for persons who lose or abandon commercial fishing nets will help prevent continued accumulations, lead to prompt removal, and better allow state and federal authorities to estimate the impacts. The department of fish and wildlife is also encouraged to provide recreational and commercial shellfish pot users with the opportunity to report lost shellfish pots through existing catch reporting mechanisms. The department of fish and wildlife should rely upon existing authorities to formulate any rules necessary to ensure compliance with mandatory reporting requirements for derelict commercial fishing nets and encourage maximum participation in reporting lost shellfish pots." [2012 c 190 § 1.]

Finding—Purpose—2002 c 20: See note following RCW 77.12.865.

77.12.880 Wildlife program management. The department shall manage wildlife programs in a manner that provides for public opportunities to view wildlife and supports nature-based and wildlife viewing tourism without impairing the state's wildlife resources. [2003 c 153 § 3.]

Findings—2003 c 153: See note following RCW 43.330.090.

77.12.885 Reported predatory wildlife interactions—Web site posting. (Effective until June 30, 2022.) Except for the personal information on reported depredations by wolves that is exempted from disclosure as provided in RCW 42.56.430, the department shall post on its internet web site all reported predatory wildlife interactions, including reported human safety confrontations or sightings as well as the known details of reported depredations by predatory wildlife on humans, pets, or livestock, within ten days of receiving the report. The posted material must include, but is not limited to, the location and time, the known details, and a running summary of such reported interactions by identified specie [species] and interaction type within each affected county. For the purposes of this section and RCW 42.56.430, "predatory wildlife" means grizzly bears, wolves, and cougars. [2017 c 246 § 2; 2007 c 293 § 2.]

Expiration date—2017 c 246: See note following RCW 42.56.430.

77.12.885 Reported predatory wildlife interactions—Web site posting. (Effective June 30, 2022.) The department shall post on its internet web site all reported predatory wildlife interactions, including reported human safety confrontations or sightings as well as the known details of reported depredations by predatory wildlife on humans, pets, or livestock, within ten days of receiving the report. The posted material must include, but is not limited to, the location and time, the known details, and a running summary of such reported interactions by identified specie [species] and interaction type within each affected county. For the purposes of this section and RCW 42.56.430, "predatory wildlife" means grizzly bears, wolves, and cougars. [2007 c 293 § 2.]

77.12.887 Washington conservation corps. The department shall cooperate, when appropriate, as a partner in the Washington conservation corps established in chapter 43.220 RCW. [2011 c 20 § 15.]

Findings—Intent—2011 c 20: See note following RCW 43.220.020.

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Chapter 77.15 RCW

FISH AND WILDLIFE ENFORCEMENT CODE

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77.15.005 Finding—Intent. The legislature finds that merger of the departments of fisheries and wildlife resulted in two criminal codes applicable to fish and wildlife, and that it has become increasingly difficult to administer and enforce the two criminal codes. Furthermore, laws defining crimes involving fish and wildlife have evolved over many years of changing uses and management objectives for fish and wildlife. The resulting two codes make it difficult for citizens to comply with the law and unnecessarily complicate enforcement of laws against violators.

The legislature intends by chapter 190, Laws of 1998 to revise and recodify the criminal laws governing fish and wildlife, ensuring that all people involved with fish and wildlife are able to know and understand the requirements of the laws and the risks of violation. Additionally, the legislature intends to create a more uniform approach to criminal laws governing fish and wildlife and to the laws authorizing prosecution, sentencing, and punishments, including repealing crimes that are redundant to other provisions of the criminal code.

Chapter 190, Laws of 1998 is not intended to alter existing powers of the commission or the director to adopt rules or exercise powers over fish and wildlife. In some places reference is made to violation of department rules, but this is intended to conform with current powers of the commission, director, or both, to adopt rules governing fish and wildlife activities. [1998 c 190 § 1.]

77.15.010 Exemption for department actions. A person is not guilty of a crime under this chapter if the person is an officer, employee, or agent of the department lawfully acting in the course of his or her authorized duties. [1998 c 190 § 2.]

77.15.020 Authority to define violation of rule as infraction—Agreement to enforce certain civil infractions. (1) If the commission or director has authority to adopt a rule that is punishable as a crime under this chapter, then the commission or director may provide that violation of the rule shall be punished with notice of infraction under RCW 7.84.030. Neither the commission nor the director have the authority to adopt a rule providing that a violation punishable as an infraction shall be a crime.

(2) The director may, under the provisions of RCW 7.84.140, enter into an agreement allowing employees of the state parks and recreation commission and the department of natural resources to enforce certain civil infractions created under this title. [2011 c 320 § 17; 2005 c 321 § 2; 1998 c 190 § 3.]

Effective date—2011 c 320: See note following RCW 79A.80.005.

Findings—Intent—2011 c 320: See RCW 79A.80.005.

77.15.030 Individual animal unlawfully taken—Separate offense. Except as provided in RCW 77.15.260(2)(b), where it is unlawful to hunt, take, fish, possess, or traffic in big game or protected or endangered fish or wildlife, then each individual animal unlawfully taken or possessed is a

separate offense. [2012 c 176 § 6; 1999 c 258 § 1; 1998 c 190 § 4.]

77.15.040 Jurisdiction. District courts have jurisdiction concurrent with superior courts for misdemeanors and gross misdemeanors committed in violation of this chapter and may impose the punishment provided for these offenses. Superior courts have jurisdiction over felonies committed in violation of this chapter. Venue for offenses occurring in offshore waters shall be in a county bordering on the Pacific Ocean, or the county where fish or wildlife from the offense are landed. [1998 c 190 § 5.]

77.15.050 "Conviction" defined. (1) Unless the context clearly requires otherwise, as used in this chapter, "conviction" means a final conviction in a state or municipal court.

(2) A plea of guilty or a finding of guilt for a violation of this title or department rule constitutes a conviction regardless of whether the imposition of sentence is deferred or the penalty is suspended. [2012 c 176 § 7; 2009 c 333 § 1; 1998 c 190 § 6.]

77.15.060 Reference to chapters 7.84 and 9A.20 RCW. Crimes defined by this chapter shall be punished as infractions, misdemeanors, gross misdemeanors, or felonies, based on the classification of crimes set out in chapters 7.84 and 9A.20 RCW. [1998 c 190 § 7.]

77.15.065 Authority of attorney general if prosecuting attorney defaults. If the prosecuting attorney of the county in which a violation of this title or rule of the department occurs fails to file an information against the alleged violator, the attorney general upon request of the commission may file an information in the superior court of the county and prosecute the case in place of the prosecuting attorney. The commission may request prosecution by the attorney general if thirty days have passed since the commission informed the county prosecuting attorney of the alleged violation. [1996 c 267 § 9; 1983 1st ex.s. c 46 § 41; 1949 c 112 § 24; Rem. Supp. 1949 § 5780-222. Formerly RCW 75.10.100, 75.08.275, 43.25.070.]

Intent—Effective date—1996 c 267: See notes following RCW 77.12.177.

77.15.070 Civil forfeiture of property used for violation of chapter. (1) Fish and wildlife officers and ex officio fish and wildlife officers may seize without warrant boats, airplanes, vehicles, motorized implements, conveyances, gear, appliances, or other articles they have probable cause to believe have been held with intent to violate or used in violation of this title or rule of the commission or director. However, fish and wildlife officers or ex officio fish and wildlife officers may not seize any item or article, other than for evidence, if under the circumstances, it is reasonable to conclude that the violation was inadvertent. The property seized is subject to forfeiture to the state under this section regardless of ownership. Property seized may be recovered by its owner by depositing with the department or into court a cash bond or equivalent security equal to the value of the seized property but not more than one hundred thousand dollars. Such cash

bond or security is subject to forfeiture in lieu of the property. Forfeiture of property seized under this section is a civil forfeiture against property and is intended to be a remedial civil sanction.

(2) In the event of a seizure of property under this section, jurisdiction to begin the forfeiture proceedings shall commence upon seizure. Within fifteen days following the seizure, the seizing authority shall serve a written notice of intent to forfeit property on the owner of the property seized and on any person having any known right or interest in the property seized. Notice may be served by any method authorized by law or court rule, including service by certified mail with return receipt requested. Service by mail is deemed complete upon mailing within the fifteen-day period following the seizure.

(3) Persons claiming a right of ownership or right to possession of property are entitled to a hearing to contest forfeiture. Such a claim shall specify the claim of ownership or possession and shall be made in writing and served on the director within forty-five days of the seizure. If the seizing authority has complied with notice requirements and there is no claim made within forty-five days, then the property shall be forfeited to the state.

(4) If any person timely serves the director with a claim to property, the person shall be afforded an opportunity to be heard as to the person's claim or right. The hearing shall be before the director or director's designee, or before an administrative law judge appointed under chapter 34.12 RCW, except that a person asserting a claim or right may remove the matter to a court of competent jurisdiction if the aggregate value of the property seized is more than five thousand dollars. The department may settle a person's claim of ownership prior to the administrative hearing.

(5) The hearing to contest forfeiture and any subsequent appeal shall be as provided for in chapter 34.05 RCW, the administrative procedure act. The seizing authority has the burden to demonstrate that it had reason to believe the property was held with intent to violate or was used in violation of this title or rule of the commission or director. The person contesting forfeiture has the burden of production and proof by a preponderance of evidence that the person owns or has a right to possess the property and:

(a) That the property was not held with intent to violate or used in violation of this title; or

(b) If the property is a boat, airplane, or vehicle, that the illegal use or planned illegal use of the boat, airplane, or vehicle occurred without the owner's knowledge or consent, and that the owner acted reasonably to prevent illegal uses of such boat, airplane, or vehicle.

(6) A forfeiture of a conveyance encumbered by a perfected security interest is subject to the interest of the secured party if the secured party neither had knowledge of nor consented to the act or omission. No security interest in seized property may be perfected after seizure.

(7) If seized property is forfeited under this section the department may retain it for official use unless the property is required to be destroyed, or upon application by any law enforcement agency of the state, release such property to the agency for the use of enforcing this title, or sell such property, and deposit the proceeds to the fish and wildlife enforce-

ment reward account created in RCW 77.15.425. [2005 c 406 § 2; 2000 c 107 § 231; 1998 c 190 § 69.]

77.15.075 Enforcement authority of fish and wildlife officers—Volunteer chaplain. (1) Fish and wildlife officers shall have and exercise, throughout the state, such police powers and duties as are vested in sheriffs and peace officers generally. Fish and wildlife officers are general authority Washington peace officers.

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

(3) Any liability or claim of liability under chapter 4.92 RCW that arises out of the exercise or alleged exercise of authority by a fish and wildlife officer rests with the department unless the fish and wildlife officer acts under the direction and control of another agency or unless the liability is otherwise assumed under an agreement between the department and another agency.

(4) The department may utilize the services of a volunteer chaplain as provided under chapter 41.22 RCW. [2020 c 38 § 1; 2012 c 176 § 8; 2009 c 204 § 1; 2003 c 388 § 3; 2002 c 128 § 4; 2000 c 107 § 212; 1998 c 190 § 112; 1993 sp.s. c 2 § 67; 1988 c 36 § 50; 1987 c 506 § 16; 1985 c 155 § 2; 1980 c 78 § 17. Formerly RCW 77.12.055.]

Legislative findings and intent—1987 c 506: See note following RCW 77.04.020.

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

Additional notes found at www.leg.wa.gov

77.15.080 Fish and wildlife officers and ex officio fish and wildlife officers—Inspection authority. Based upon articulable facts that a person is engaged in fishing, harvesting, or hunting activities, fish and wildlife officers and ex officio fish and wildlife officers have the authority to temporarily stop the person and check for valid licenses, tags, permits, stamps, or catch record cards, and to inspect all fish, shellfish, seaweed, and wildlife in possession as well as the equipment being used to ensure compliance with the requirements of this title. Fish and wildlife officers and ex officio fish and wildlife officers also may request that the person write his or her signature for comparison with the signature on his or her fishing, harvesting, or hunting license. Failure to comply with the request is prima facie evidence that the person is not the person named on the license. Fish and wildlife officers and ex officio fish and wildlife officers may require the person, if age sixteen or older, to exhibit a driver's license or other photo identification. [2014 c 202 § 303; 2014 c 48 § 3; 2012 c 176 § 9; 2002 c 281 § 8. Prior: 2001 c 306 § 1; 2001 c 253 § 23; 2000 c 107 § 233; 1998 c 190 § 113.]

Reviser's note: This section was amended by 2014 c 48 § 3 and by 2014 c 202 § 303, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

(2021 Ed.)

Findings—2014 c 202: See note following RCW 77.135.010.

Purpose—2002 c 281: See note following RCW 77.08.010.

77.15.085 Seizure without warrant. Fish and wildlife officers and ex officio fish and wildlife officers may seize without a warrant wildlife, fish, shellfish, and covered animal species parts and products they have probable cause to believe have been taken, transported, or possessed in violation of this title or rule of the commission or director. [2016 c 2 § 4 (Initiative Measure No. 1401, approved November 3, 2015); 2000 c 107 § 232.]

Finding—2016 c 2 (Initiative Measure No. 1401): See note following RCW 77.15.135.

77.15.090 Search, arrest warrant—Issuance—Execution. On a showing of probable cause that there has been a violation of any fish, seaweed, shellfish, or wildlife law of the state of Washington, or upon a showing of probable cause to believe that evidence of such violation may be found at a place, a court shall issue a search warrant or arrest warrant. Fish and wildlife officers may execute any such arrest or search warrant reasonably necessary to their duties under this title and may seize fish, seaweed, shellfish, and wildlife or any evidence of a crime and the fruits or instrumentalities of a crime as provided by warrant. The court may have a building, enclosure, vehicle, vessel, container, or receptacle opened or entered and the contents examined. [2001 c 253 § 24; 2000 c 107 § 234; 1998 c 190 § 117; 1980 c 78 § 26; 1955 c 36 § 77.12.120. Prior: 1947 c 275 § 22; Rem. Supp. 1947 § 5992-32. Formerly RCW 77.12.120.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.15.092 Arrest without warrant. Fish and wildlife officers and ex officio fish and wildlife officers may arrest without warrant persons found violating the law or rules adopted pursuant to this title. [2000 c 107 § 213; 1998 c 190 § 114; 1987 c 506 § 19; 1980 c 78 § 20; 1971 ex.s. c 173 § 2; 1961 c 68 § 3; 1955 c 36 § 77.12.080. Prior: 1947 c 275 § 18; Rem. Supp. 1947 § 5992-28. Formerly RCW 77.12.080.]

Legislative findings and intent—1987 c 506: See note following RCW 77.04.020.

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.15.094 Search without warrant—Seizure of evidence, property—Limitation. Fish and wildlife officers and ex officio fish and wildlife officers may make a reasonable search without warrant of a vessel, conveyances, vehicles, containers, packages, or other receptacles for fish, seaweed, shellfish, and wildlife which they have reason to believe contain evidence of a violation of law or rules adopted pursuant to this title and seize evidence as needed for law enforcement. This authority does not extend to quarters in a boat, building, or other property used exclusively as a private domicile, does not extend to transitory residences in which a person has a reasonable expectation of privacy, and does not allow search and seizure without a warrant if the thing or place is protected from search without warrant within the meaning of Article I, section 7 of the state Constitution. Seizure of property as evidence of a crime does not preclude seizure of the property for forfeiture as authorized

by law. [2001 c 253 § 25; 2000 c 107 § 214; 1998 c 190 § 115; 1987 c 506 § 20; 1980 c 78 § 21; 1955 c 36 § 77.12.090. Prior: 1947 c 275 § 19; Rem. Supp. 1947 § 5992-29. Formerly RCW 77.12.090.]

Legislative findings and intent—1987 c 506: See note following RCW 77.04.020.

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.15.096 Inspection without warrant—Commercial fish and wildlife entities—Limitations. (1) Fish and wildlife officers may inspect without warrant at reasonable times and in a reasonable manner:

(a) The premises, containers, fishing equipment, fish, seaweed, shellfish, and wildlife of any commercial fisher or wholesale dealer or fish dealer; and

(b) Records required by the department of any commercial fisher or wholesale fish buyer or fish dealer.

(2) Fish and wildlife officers and ex officio fish and wildlife officers may inspect without warrant at reasonable times and in a reasonable manner:

(a) The premises, containers, fishing equipment, fish, shellfish, wildlife, or covered animal species of any person trafficking or otherwise distributing or receiving fish, shellfish, wildlife, or covered animal species;

(b) Records required by the department of any person trafficking or otherwise distributing or receiving fish, shellfish, wildlife, or covered animal species;

(c) Any cold storage plant that a fish and wildlife officer has probable cause to believe contains fish, shellfish, or wildlife;

(d) The premises, containers, fish, shellfish, wildlife, or covered animal species of any taxidermist or fur buyer; or

(e) The records required by the department of any taxidermist or fur buyer.

(3) Fish and wildlife officers may inspect without warrant, at reasonable times and in a reasonable manner, the records required by the department of any retail outlet selling fish, shellfish, or wildlife, and, if the officers have probable cause to believe a violation of this title or rules of the commission has occurred, they may inspect without warrant the premises, containers, and fish, shellfish, and wildlife of any retail outlet selling fish, shellfish, or wildlife.

(4) Authority granted under this section does not extend to quarters in a boat, building, or other property used exclusively as a private domicile, does not extend to transitory residences in which a person has a reasonable expectation of privacy, and does not allow search and seizure without a warrant if the thing or place is protected from search without warrant within the meaning of Article I, section 7 of the state Constitution. [2017 3rd sp.s. c 8 § 5; 2002 c 128 § 5; 2001 c 253 § 26; 1998 c 190 § 116; 1982 c 152 § 1; 1980 c 78 § 22. Formerly RCW 77.12.095.]

Finding—Intent—Effective date—2017 3rd sp.s. c 8: See notes following RCW 77.08.010.

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.15.098 Willful misconduct/gross negligence—Civil liability. (1) An authorized state, county, or municipal officer may be subject to civil liability under RCW 77.15.070

for willful misconduct or gross negligence in the performance of his or her duties.

(2) The director, the fish and wildlife commission, or the department may be subject to civil liability for their willful or reckless misconduct in matters involving the seizure and forfeiture of personal property involved with fish or wildlife offenses. [2000 c 107 § 215; 1993 sp.s. c 2 § 68; 1989 c 314 § 3. Formerly RCW 77.12.103.]

Finding—1989 c 314: "In order to improve the enforcement of wildlife laws it is important to increase the penalties upon poachers by seizing the conveyances and gear that are used in poaching activities and to cause forfeiture of those items to the department." [1989 c 314 § 1.]

Additional notes found at www.leg.wa.gov

77.15.100 Seized fish, shellfish, wildlife, and covered animal species part or product—Forfeiture—Sale—Disposition of sale. (1) Fish, shellfish, and wildlife are property of the state under RCW 77.04.012. Fish and wildlife officers may sell seized, commercially taken or possessed fish and shellfish to a wholesale buyer and deposit the proceeds into the fish and wildlife enforcement reward account under RCW 77.15.425. Seized, recreationally taken or possessed fish, shellfish, and wildlife may be donated to nonprofit charitable organizations. The charitable organization must qualify for tax-exempt status under 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue code. Seized fish, shellfish, and wildlife may be returned to the environment or otherwise safely disposed of if storage is not practical under the circumstances, after the evidentiary value of the seized fish, shellfish, or wildlife has been preserved through photographs, measurements, biological samples, or other reasonable means. If an exculpatory value is clearly apparent in the seized fish, shellfish, or wildlife, and the exculpatory value is not otherwise reasonably obtainable, the fish, shellfish, or wildlife should be retained.

(2) Fish and wildlife officers may dispose of any covered animal species part or product seized through the enforcement of RCW 77.15.135 through a 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, as allowed under state, federal, and international law.

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

(a) Conviction as defined in RCW 77.15.050;

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

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

(d) Any disposition of a case arising from an act originally charged as a violation of this title or department rule, or an infraction cited or referred as a violation of this title, department rule, or chapter 7.84 RCW, whereby the offender

enters into a disposition that continues or defers the case for dismissal upon the successful completion of specific terms or conditions. For cases resulting in other types of dispositions that are not defined in RCW 77.15.050, including findings of not guilty, not committed, or dismissal with prejudice due to a failure of proof or violation of law, the fish, shellfish, wildlife, or covered animal species part or product may be returned, or its equivalent value paid, if the fish, shellfish, wildlife, or covered animal species part or product have already been donated or sold. If a case is dismissed without prejudice and is subject to being refiled, the seized fish, shellfish, wildlife, or covered animal species part or product need not be returned until the statute of limitations for the violation has expired. Nothing in this section prevents the seizing authority from pursuing forfeiture under RCW 77.15.070 or any other statute or rule. [2020 c 38 § 2; 2016 c 2 § 5 (Initiative Measure No. 1401, approved November 3, 2015); 2014 c 48 § 4; 2012 c 176 § 10; 2009 c 333 § 39; 2000 c 107 § 235; 1998 c 190 § 63.]

Finding—2016 c 2 (Initiative Measure No. 1401): See note following RCW 77.15.135.

77.15.110 Acting for commercial purposes—When—Proof. (1) For purposes of this chapter, a person acts for commercial purposes if the person engages in conduct that relates to commerce in fish, seaweed, shellfish, or wildlife or any parts thereof. Commercial conduct may include taking, delivering, selling, buying, brokering, or trading fish, seaweed, shellfish, or wildlife where there is present or future exchange of money, goods, or any valuable consideration. Evidence that a person acts for commercial purposes includes, but is not limited to, the following conduct:

- (a) Using gear typical of that used in commercial fisheries;
- (b) Exceeding the bag or possession limits for personal use by taking or possessing more than three times the amount of fish, seaweed, shellfish, or wildlife allowed;
- (c) Delivering or attempting to deliver fish, seaweed, shellfish, or wildlife to a person who sells or resells it;
- (d) Taking fish or shellfish using a vessel designated on a commercial fishery license or using gear not authorized in a personal use fishery;
- (e) Using a commercial fishery license;
- (f) Selling or dealing in raw furs for a fee or in exchange for goods or services;
- (g) Performing taxidermy service on fish, shellfish, or wildlife belonging to another person for a fee or receipt of goods or services; or
- (h) Packs, cuts, processes, or stores the meat of wildlife for consumption, for a fee or in exchange for goods or services.

(2) For purposes of this chapter, the value of any fish, seaweed, shellfish, or wildlife may be proved based on evidence of legal or illegal sales involving the person charged or any other person, or offers to sell or solicitation of offers to sell by the person charged or by any other person, or of any market price for the fish, seaweed, shellfish, or wildlife including market price for farm-raised game animals. The value assigned to specific fish, seaweed, shellfish, or wildlife by RCW 77.15.420 may be presumed to be the value of such fish, seaweed, shellfish, or wildlife. It is not relevant to proof

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of value that the person charged misrepresented that the fish, seaweed, shellfish, or wildlife was taken in compliance with law if the fish, seaweed, shellfish, or wildlife was unlawfully taken and had no lawful market value. [2017 3rd sp.s. c 8 § 8; 2012 c 176 § 13; 2002 c 127 § 2; 2001 c 253 § 27; 1998 c 190 § 8.]

Finding—Intent—Effective date—2017 3rd sp.s. c 8: See notes following RCW 77.08.010.

Intent—2002 c 127: "The legislature intends to clarify that when a crime under chapter 77.15 RCW requires proof that a person acted for commercial purposes, that element refers to engaging in particular conduct that is commercial in nature and the element does not imply that a particular state of mind must exist. This act revises the existing definition of that element to confirm that the element is fulfilled by engaging in commercial conduct and to eliminate any implication that a particular mental state of mind must be shown. Examples are given of the type of conduct that may be considered as evidence that a person acts for a commercial purpose; however, these examples do not create a conclusive presumption that a person acts for a commercial purpose." [2002 c 127 § 1.]

77.15.120 Endangered fish or wildlife—Unlawful taking—Penalty. (1) A person is guilty of unlawful taking of endangered fish or wildlife in the second degree if:

(a) The person hunts for, fishes for, possesses, maliciously harasses, or kills fish or wildlife, or possesses or intentionally destroys the nests or eggs of fish or wildlife;

(b) The fish or wildlife is designated by the commission as endangered; and

(c) The taking of the fish or wildlife or the destruction of the nests or eggs has not been authorized by rule of the commission, a permit issued by the department, or a permit issued pursuant to the federal endangered species act.

(2) A person is guilty of unlawful taking of endangered fish or wildlife in the first degree if the person has been:

(a) Convicted under subsection (1) of this section or convicted of any crime under this title involving the taking, possessing, or malicious harassment of endangered fish or wildlife; and

(b) Within five years of the date of the prior conviction the person commits the act described by subsection (1) of this section.

(3)(a) Unlawful taking of endangered fish or wildlife in the second degree is a gross misdemeanor.

(b) Unlawful taking of endangered fish or wildlife in the first degree is a class C felony. The department shall revoke any licenses or tags used in connection with the crime and order the person's privileges to hunt, fish, trap, or obtain licenses under this title to be suspended for two years. [2014 c 48 § 5; 2000 c 107 § 236; 1998 c 190 § 13.]

77.15.130 Protected fish or wildlife—Unauthorized taking—Penalty—Criminal wildlife penalty assessment. (1) A person is guilty of unlawful taking of protected fish or wildlife if:

(a) The person hunts for, fishes for, maliciously takes, harasses, or possesses fish or wildlife, or the person possesses or maliciously destroys the eggs or nests of fish or wildlife designated by the commission as protected, other than species designated as threatened or sensitive, and the taking has not been authorized by rule of the commission or by a permit issued by the department;

(b) The person violates any rule of the commission regarding the taking, harassing, possession, or transport of protected fish or wildlife; or

(c)(i) The person hunts for, fishes for, intentionally takes, harasses, or possesses fish or wildlife, or the person possesses or intentionally destroys the nests or eggs of fish or wildlife designated by the commission as threatened or sensitive; and

(ii) The taking of the fish or wildlife, or the destruction of the nests or eggs, has not been authorized by rule of the commission, a permit issued by the department, or a permit issued pursuant to the federal endangered species act.

(2) Unlawful taking of protected fish or wildlife is a misdemeanor.

(3) In addition to the penalties set forth in subsection (2) of this section, if a person is convicted of violating this section and the violation results in the death of protected wildlife listed in this subsection, the court shall require payment of the following amounts for each animal taken or possessed. This is a criminal wildlife penalty assessment that must be paid to the clerk of the court and distributed each month to the state treasurer for deposit in the fish and wildlife enforcement reward account created in RCW 77.15.425:

- (a) Ferruginous hawk, two thousand dollars;
- (b) Common loon, two thousand dollars;
- (c) Bald eagle, two thousand dollars;
- (d) Golden eagle, two thousand dollars; and
- (e) Peregrine falcon, two thousand dollars.

(4) If two or more persons are convicted under subsection (1) of this section, and subsection (3) of this section is applicable, the criminal wildlife penalty assessment must be imposed against the persons jointly and severally.

(5)(a) The criminal wildlife penalty assessment under subsection (3) of this section must be imposed regardless of and in addition to any sentence, fines, or costs otherwise provided for violating any provision of this section. The criminal wildlife penalty assessment must be included by the court in any pronouncement of sentence and may not be suspended, waived, modified, or deferred in any respect.

(b) This subsection may not be construed to abridge or alter alternative rights of action or remedies in equity or under common law or statutory law, criminal or civil.

(6) A defaulted criminal wildlife penalty assessment authorized under subsection (3) of this section may be collected by any means authorized by law for the enforcement of orders of the court or collection of a fine or costs, including but not limited to vacation of a deferral of sentencing or vacation of a suspension of sentence.

(7) The department shall revoke the hunting license and suspend the hunting privileges of a person assessed a criminal wildlife penalty assessment under this section until the penalty assessment is paid through the registry of the court in which the penalty assessment was assessed.

(8) The criminal wildlife penalty assessments provided in subsection (3) of this section must be doubled in the following instances:

(a) When a person commits a violation that requires payment of a criminal wildlife penalty assessment within five years of a prior gross misdemeanor or felony conviction under this title; or

(b) When the trier of fact determines that the person took or possessed the protected wildlife in question with the intent of bartering, selling, or otherwise deriving economic profit from the wildlife or wildlife parts. [2014 c 48 § 6; 2012 c 176 § 14; 1998 c 190 § 14.]

77.15.135 Unlawful sale, purchase, trade, barter, or distribution of covered animal species part or product—Penalty—Report to the legislature—Adoption of rules.

(1) Except as authorized in subsections (2) and (3) of this section, it is unlawful for a person to sell, offer to sell, purchase, trade, barter for, or distribute any covered animal species part or product.

(2) The prohibitions set forth in subsection (1) of this section do not apply if any of the following conditions is [are] satisfied:

(a) The covered animal species part or product is part of a bona fide antique, provided the antique status of such an antique is established by the owner or seller thereof with historical documentation evidencing provenance and showing the antique to be not less than one hundred years old, and the covered animal species part or product is less than fifteen percent by volume of such an antique;

(b) The distribution of the covered animal species part or product is for a bona fide educational or scientific purpose, or to or from a museum;

(c) The distribution of the covered animal species part or product is to a legal beneficiary of an estate, trust, or other inheritance, upon the death of the owner of the covered animal species part or product;

(d) The covered animal species part or product is less than fifteen percent by volume of a musical instrument, including, without limitation, string instruments and bows, wind and percussion instruments, and pianos; or

(e) The intrastate sale, offer for sale, purchase, trade, barter for, or distribution of the covered animal species part or product is expressly authorized by federal law or permit.

(3) The prohibitions set forth in subsection (1) of this section do not apply to an employee or agent of a federal, state, or local government undertaking any law enforcement activity pursuant to federal, state, or local law or any mandatory duty required by federal, state, or local law.

(4)(a) Except as otherwise provided in this section, a person is guilty of unlawful trafficking in species threatened with extinction in the second degree if the person commits the act described in subsection (1) of this section and the violation involves covered animal species parts or products with a total market value of less than two hundred fifty dollars.

(b) Except as otherwise provided in this section, a person is guilty of unlawful trafficking in species threatened with extinction in the first degree if the person commits the act described by subsection (1) of this section and the violation:

(i) Involves covered animal species parts or products with a total market value of two hundred fifty dollars or more;

(ii) Occurs after entry of a prior conviction under this section;

or

(iii) Occurs within five years of entry of a prior conviction for any other gross misdemeanor or felony under this chapter.

(c) Unlawful trafficking in species threatened with extinction in the second degree is a gross misdemeanor.

(d) Unlawful trafficking in species threatened with extinction in the first degree is a class C felony.

(e) If a person commits the act described by subsection (1) of this section and such an act also would be a violation of any other criminal provision of this title, the prosecuting authority has discretion as to which crime or crimes the person is charged as long as the charges are consistent with any limitations in the state and federal Constitutions.

(5) In addition to the penalties set forth in subsection (4) of this section, if a person is convicted of violating this section, the court shall require payment of a criminal wildlife penalty assessment in the amount of two thousand dollars that must be paid to the clerk of the court and distributed each month to the state treasurer for deposit in the fish and wildlife enforcement reward account created in RCW 77.15.425.

(6) If two or more people are convicted under subsection (1) of this section, the criminal wildlife penalty assessment under this section must be imposed against each person jointly and severally.

(7) The criminal wildlife penalty assessment provided in this section must be doubled if the person is convicted of unlawful trafficking in species threatened with extinction in the first degree.

(8) By January 1, 2017, and thereafter annually, the director shall provide a comprehensive report outlining current and future enforcement activities and strategies related to chapter 2, Laws of 2016, including recommendations regarding any necessary changes, to the relevant policy and fiscal committees of the senate and house of representatives.

(9) The commission may adopt rules necessary for the implementation and enforcement of chapter 2, Laws of 2016. [2016 c 2 § 3 (Initiative Measure No. 1401, approved November 3, 2015).]

Finding—2016 c 2 (Initiative Measure No. 1401): "There is broad consensus that the trafficking of animals threatened with extinction continues to grow at an alarming pace, threatening an increasing variety of animal species including elephants, rhinoceroses, tigers, lions, leopards, cheetahs, pangolins, marine turtles, sharks, and rays, among others. These species are threatened with extinction in large part due to the trafficking of their parts and products. The national strategy for combating wildlife trafficking, released in February 2014, recognized the important role that states have in protecting species that are subject to illegal wildlife trade. Federal law regulates the transfer or importation of parts or products made from endangered animal species, but due to the increasing demand for these products around the world, state authority needs to be expanded to appropriately regulate these markets on a local level.

The most effective way to discourage illegal trafficking in animal species threatened with extinction is to eliminate markets and profits. The people find that it is in the public interest to protect animal species threatened with extinction by prohibiting within the state of Washington, with certain limited exceptions, the sale, offer for sale, purchase, trade, barter for, and distribution of any part or product of any species of elephant, rhinoceros, tiger, lion, leopard, cheetah, pangolin, marine turtle, shark, or ray identified as threatened with extinction by specified international conservation organizations. These animals represent some of the most trafficked species threatened with extinction according to illegal wildlife product seizure data gathered by the world wildlife fund-TRAFFIC, international union for conservation of nature, and other international conservation organizations." [2016 c 2 § 1 (Initiative Measure No. 1401, approved November 3, 2015).]

77.15.150 Poison or explosives—Unlawful use—Penalty. (1) A person is guilty of unlawful use of poison or explosives if:

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(a) The person lays out, sets out, or uses a drug, poison, or other deleterious substance that kills, injures, harms, or endangers fish, shellfish, or wildlife, except if the person is using the substance in compliance with federal and state laws and label instructions; or

(b) The person lays out, sets out, or uses an explosive that kills, injures, harms, or endangers fish, shellfish, or wildlife, except if authorized by law or permit of the director.

(2) Unlawful use of poison or explosives is a gross misdemeanor. [2001 c 253 § 28; 1998 c 190 § 16.]

77.15.160 Infractions—Penalties. The following acts are infractions and may be cited and civil penalties imposed as provided under chapter 7.84 RCW, to include detentions for a reasonable period and investigations as provided in RCW 7.84.030. The civil provisions of this section are cumulative and nonexclusive and do not affect any criminal prosecution or investigatory authority over criminal offenses:

(1) Fishing and shellfishing infractions:

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

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

(c) Catch reporting: Failing to return a catch record card to the department as required by department rule.

(d) Recreational fishing: Fishing for fish or shellfish and the person:

(i) Fails to have in the person's possession the license or the catch record card required by chapter 77.32 RCW for such an activity; or

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

(A) Salmon or steelhead;

(B) Sturgeon;

(C) Game fish;

(D) Food fish;

(E) Shellfish;

(F) Unclassified fish or shellfish;

(G) Waste of food fish, game fish or shellfish. This subsection (1)(d)(ii) does not apply to use of a net to take fish under RCW 77.15.580 or unlawful recreational fishing in the first degree under RCW 77.15.370.

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

(i) While the person is not in possession of the license required by chapter 77.32 RCW; or

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

(2) Hunting infractions:

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

(b) Eggs or nests: Maliciously, and without permit authorization, destroying, taking, or harming the eggs or active nests of a wild bird not classified as endangered or pro-

tected. For purposes of this subsection, "active nests" means nests that contain eggs or fledglings.

(c) Hunting for wildlife not classified as big game and the person violates any department rule regarding seasons, closed areas, closed times, or any other rule defining the method or manner of hunting or taking wildlife and the violation involves:

- (i) Unclassified wildlife;
- (ii) Small game;
- (iii) Furbearers;
- (iv) Game birds;
- (v) Wild birds;
- (vi) Wild animals;
- (vii) Waste of small game.

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

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

- (i) Maintain records as required by department rule; or
- (ii) Report information from these records as required by department rule.

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

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

(5)(a) Invasive species management infractions:

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

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

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

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

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

(6) Other infractions:

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

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

(c) Posting signs: Posting signs preventing hunting or fishing on any land not owned or leased by the person doing the posting, or without the permission of the person who owns, leases, or controls the land posted.

(d) Department permits: Except as provided in RCW 77.15.750, using a department permit issued by the department, and the person:

- (i) Violates any terms or conditions of the permit;

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

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

(e) This subsection does not apply to discover pass, vehicle access pass, or day-use permit requirements or penalties pursuant to RCW 79A.80.080. [2020 c 38 § 3. Prior: 2017 3rd sp.s. c 17 § 303; 2017 3rd sp.s. c 8 § 42; prior: 2014 c 202 § 204; 2014 c 48 § 7; 2013 c 307 § 2; 2012 c 176 § 15; 2000 c 107 § 237; 1998 c 190 § 17.]

Finding—Intent—Effective date—2017 3rd sp.s. c 8: See notes following RCW 77.08.010.

Findings—2014 c 202: See note following RCW 77.135.010.

77.15.170 Waste of fish and wildlife—Penalty. (1) A person is guilty of waste of fish and wildlife if the person:

(a) Takes or possesses wildlife classified as food fish, game fish, shellfish, or game birds having a value of two hundred fifty dollars or more, or wildlife classified as big game; and

(b) Recklessly allows such fish, shellfish, or wildlife to be wasted.

(2) Waste of fish and wildlife is a gross misdemeanor. Upon conviction, the department shall revoke any license or tag used in the crime and shall order suspension of the person's privileges to engage in the activity in which the person committed waste of fish and wildlife for a period of one year.

(3) It is prima facie evidence of waste if:

(a) A fish dealer purchases or engages a quantity of food fish, shellfish, or game fish that cannot be processed within sixty hours after the food fish, game fish, or shellfish are taken from the water, unless the food fish, game fish, or shellfish are preserved in good marketable condition; or

(b) A person brings a big game animal to a wildlife meat cutter and then abandons the animal. For purposes of this subsection (3)(b), a big game animal is deemed to be abandoned when its carcass is placed in the custody of a wildlife meat cutter for butchering and processing and:

(i) Having been placed in such custody for an unspecified period of time, the meat is not removed within thirty days after the wildlife meat cutter gives notice to the person who brought in the carcass or, having been so notified, the person who brought in the carcass refuses or fails to pay the agreed upon or reasonable charges for the butchering or processing of the carcass; or

(ii) Having been placed in such custody for a specified period of time, the meat is not removed at the end of the specified period or the person who brought in the carcass refuses to pay the agreed upon or reasonable charges for the butchering or processing of the carcass. [2017 3rd sp.s. c 8 § 9; 2014 c 48 § 8; 2012 c 176 § 16; 1999 c 258 § 5; 1998 c 190 § 21.]

Finding—Intent—Effective date—2017 3rd sp.s. c 8: See notes following RCW 77.08.010.

77.15.180 Unlawful interference with fishing or hunting gear—Penalty. (1) A person is guilty of unlawful interference with fishing or hunting gear in the second degree if the person:

(a) Removes or releases a wild animal from another person's trap without permission;

(b) Springs, pulls up, damages, possesses, or destroys another person's trap without the owner's permission; or

(c) Interferes with recreational gear used to take fish or shellfish.

(2) Unlawful interference with fishing or hunting gear in the second degree is a misdemeanor.

(3) A person is guilty of unlawful interference with fishing or hunting gear in the first degree if the person:

(a) Removes or releases fish or shellfish from commercial fishing gear without the owner's permission; or

(b) Intentionally destroys or interferes with commercial fishing gear.

(4) Unlawful interference with fishing or hunting gear in the first degree is a gross misdemeanor.

(5) A person is not in violation of unlawful interference with fishing or hunting gear if the person removes a trap placed on property owned, leased, or rented by the person. [2014 c 48 § 9; 2001 c 253 § 29; 1998 c 190 § 22.]

77.15.190 Unlawful trapping—Penalty. (1) A person is guilty of unlawful trapping if the person:

(a) Sets out traps that are capable of taking wild animals, wild birds, game animals, or furbearing mammals and does not possess the licenses, tags, or permits required under this title;

(b) Violates any department rule regarding seasons, bag, or possession limits, closed areas including game reserves, closed times, or any other rule governing the trapping of wild animals or wild birds, with the exception of reporting rules; or

(c) Fails to identify the owner of the traps or devices by neither (i) attaching a metal tag with the owner's department-assigned identification number or the name and address of the trapper legibly written in numbers or letters not less than one-eighth inch in height nor (ii) inscribing into the metal of the trap such number or name and address.

(2) Unlawful trapping is a misdemeanor. [2014 c 48 § 10; 2012 c 176 § 17; 1999 c 258 § 9; 1998 c 190 § 34.]

77.15.191 Revocation of trapper's license—Placement of unauthorized traps. The director may revoke the trapper's license of a person placing unauthorized traps on private property and may remove those traps. [2000 c 107 § 268; 1987 c 372 § 4. Formerly RCW 77.65.470, 77.32.199.]

77.15.192 Definitions. The definitions in this section apply throughout RCW 77.15.194 through 77.15.198.

(1) "Animal" means any nonhuman vertebrate.

(2) "Body-gripping trap" means a trap that grips an animal's body or body part. Body-gripping trap includes, but is not limited to, steel-jawed leghold traps, padded-jaw leghold traps, Conibear traps, neck snares, and nonstrangling foot snares. Cage and box traps, suitcase-type live beaver traps, and common rat and mouse traps are not considered body-gripping traps.

(3) "Person" means a human being and, where appropriate, a public or private corporation, an unincorporated association, a partnership, a government, or a governmental instrumentality.

(4) "Raw fur" means a pelt that has not been processed for purposes of retail sale.

(2021 Ed.)

(5) "Animal problem" means any animal that threatens or damages timber or private property or threatens or injures livestock or any other domestic animal. [2001 c 1 § 2 (Initiative Measure No. 713, approved November 7, 2000).]

Finding—2001 c 1 (Initiative Measure No. 713): "The people of the state of Washington find that this act is necessary in order to protect people and domestic pets and to protect and conserve wildlife from the dangers of cruel and indiscriminate steel-jawed leghold traps and poisons, and to encourage the use of humane methods of trapping when trapping is necessary to ensure public health and safety, protect livestock or property, safeguard threatened and endangered species, or conduct field research on wildlife." [2001 c 1 § 1 (Initiative Measure No. 713, approved November 7, 2000).]

Additional notes found at www.leg.wa.gov

77.15.194 Unlawful traps—Penalty. (1) It is unlawful to use or authorize the use of any steel-jawed leghold trap, neck snare, or other body-gripping trap to capture any mammal for recreation or commerce in fur.

(2) It is unlawful to knowingly buy, sell, barter, or otherwise exchange, or offer to buy, sell, barter, or otherwise exchange the raw fur of a mammal or a mammal that has been trapped in this state with a steel-jawed leghold trap or any other body-gripping trap, whether or not pursuant to permit.

(3) It is unlawful to use or authorize the use of any steel-jawed leghold trap or any other body-gripping trap to capture any animal, except as provided in subsections (4) through (6) of this section.

(4) Nothing in this section prohibits the use of a Conibear trap in water, a padded leghold trap, or a nonstrangling type foot snare with a special permit granted by the director under (a) through (d) of this subsection. Issuance of the special permits shall be governed by rules adopted by the department and in accordance with the requirements of this section. Every person granted a special permit to use a trap or device listed in this subsection shall check the trap or device at least every twenty-four hours.

(a) Nothing in this section prohibits the director, in consultation with the department of social and health services or the United States department of health and human services from granting a permit to use traps listed in this subsection for the purpose of protecting people from threats to their health and safety.

(b) Nothing in this section prohibits the director from granting a special permit to use traps listed in this subsection to a person who applies for such a permit in writing, and who establishes that there exists on a property an animal problem that has not been and cannot be reasonably abated by the use of nonlethal control tools, including but not limited to guard animals, electric fencing, or box and cage traps, or if such nonlethal means cannot be reasonably applied. Upon making a finding in writing that the animal problem has not been and cannot be reasonably abated by nonlethal control tools or if the tools cannot be reasonably applied, the director may authorize the use, setting, placing, or maintenance of the traps for a period not to exceed thirty days.

(c) Nothing in this section prohibits the director from granting a special permit to department employees or agents to use traps listed in this subsection where the use of the traps is the only practical means of protecting threatened or endangered species as designated under RCW 77.08.010.

(d) Nothing in this section prohibits the director from issuing a permit to use traps listed in this subsection, excluding Conibear traps, for the conduct of legitimate wildlife research.

(5) Nothing in this section prohibits the United States fish and wildlife service, its employees or agents, from using a trap listed in subsection (4) of this section where the fish and wildlife service determines, in consultation with the director, that the use of such traps is necessary to protect species listed as threatened or endangered under the federal endangered species act (16 U.S.C. Sec. 1531 et seq.).

(6)(a) An airport operator that uses a padded foot, leg-hold, or any other body-gripping trap for the protection of human and aviation security to secure an animal is exempt from the provisions of subsection (3) of this section if: (i) Once every three years, the airport operator obtains a special permit from the director for this purpose; and (ii) once each year, the airport operator submits a report to the director detailing the previous year's activities regulated under subsection (3) of this section.

(b) Nothing under this subsection (6) authorizes an airport operator to sell the raw fur of a mammal or otherwise violate the provisions of subsection (2) of this section.

(c) For the purposes of this subsection, "airport operator" has the same meaning as defined in RCW 14.08.015.

(7) A person violating this section is guilty of a gross misdemeanor. [2019 c 382 § 1; 2003 c 53 § 374; 2001 c 1 § 3 (Initiative Measure No. 713, approved November 7, 2000).]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Finding—Severability—2001 c 1 (Initiative Measure No. 713): See notes following RCW 77.15.192.

77.15.196 Unlawful poison—Penalty. (1) It is unlawful to poison or attempt to poison any animal using sodium fluoroacetate, also known as compound 1080, or sodium cyanide.

(2) A person violating this section is guilty of a gross misdemeanor. [2003 c 53 § 375; 2001 c 1 § 4 (Initiative Measure No. 713, approved November 7, 2000).]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Finding—Severability—2001 c 1 (Initiative Measure No. 713): See notes following RCW 77.15.192.

77.15.198 Violation of RCW 77.15.194 or 77.15.196—Penalty. In addition to appropriate criminal penalties, the director shall revoke the trapping license of any person convicted of a violation of RCW 77.15.194 or 77.15.196. The director shall not issue the violator a trapping license for a period of five years following the revocation. Following a subsequent conviction for a violation of RCW 77.15.194 or 77.15.196 by the same person, the director shall not issue a trapping license to the person at any time. [2003 c 53 § 376; 2001 c 1 § 5 (Initiative Measure No. 713, approved November 7, 2000).]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Finding—Severability—2001 c 1 (Initiative Measure No. 713): See notes following RCW 77.15.192.

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77.15.210 Obstructing the taking of fish, shellfish, or wildlife—Penalty. (1) A person is guilty of obstructing the taking of fish[, shellfish,] or wildlife if the person:

(a) Harasses, drives, or disturbs fish, shellfish, or wildlife with the intent of disrupting lawful pursuit or taking thereof; or

(b) Harasses, intimidates, or interferes with an individual engaged in the lawful taking of fish, shellfish, or wildlife or lawful predator control with the intent of disrupting lawful pursuit or taking thereof.

(2) Obstructing the taking of fish, shellfish, or wildlife is a gross misdemeanor.

(3) It is an affirmative defense to a prosecution for obstructing the taking of fish, shellfish, or wildlife that the person charged was:

(a) Interfering with a person engaged in hunting outside the legally established hunting season; or

(b) Preventing or attempting to prevent unauthorized trespass on private property.

(4) The person raising a defense under subsection (3) of this section has the burden of proof by a preponderance of the evidence. [2001 c 253 § 30; 1998 c 190 § 24.]

77.15.212 Damages due to violation of RCW 77.15.210—Civil action. Any person who is damaged by any act prohibited in RCW 77.15.210 may bring a civil action to enjoin further violations, and recover damages sustained, including a reasonable attorneys' fee. The trial court may increase the award of damages to an amount not to exceed three times the damages sustained. A party seeking civil damages under this section may recover upon proof of a violation by a preponderance of the evidence. The state of Washington may bring a civil action to enjoin violations of this section. [2000 c 107 § 238.]

77.15.230 Department lands or facilities—Unlawful use—Penalty. (1) A person is guilty of unlawful use of department lands or facilities if the person enters upon, uses, or remains upon department-owned or department-controlled lands or facilities in violation of any rule of the department.

(2) Unlawful use of department lands or facilities is a misdemeanor. [1999 c 258 § 6; 1998 c 190 § 26.]

77.15.240 Unlawful use of dogs—Penalty—Authority to take or destroy a dog—Certain hazing activities permitted. (1)(a) A person is guilty of unlawful use of dogs if the person:

(i) Negligently fails to prevent a dog under the person's control from pursuing, harassing, attacking, or killing deer, elk, moose, caribou, mountain sheep, or animals classified as endangered under this title; or

(ii) Uses the dog to hunt deer or elk.

(b) For the purposes of this subsection, a dog is "under a person's control" if the dog is owned or possessed by, or in the custody of, a person.

(2) Unlawful use of dogs is a misdemeanor.

(3)(a) Based on a reasonable belief that a dog is pursuing, harassing, attacking, or killing a deer, elk, moose, caribou, mountain sheep, or animals classified as protected or endangered under this title, fish and wildlife officers and ex officio fish and wildlife officers may:

(i) Lawfully take a dog into custody; or

(ii) If necessary to avoid repeated harassment, injury, or death of wildlife under this section, destroy the dog.

(b) Fish and wildlife officers and ex officio fish and wildlife officers who destroy a dog pursuant to this section are immune from civil or criminal liability arising from their actions.

(4)(a) This section does not apply to a person using a dog to conduct a department-approved and controlled hazing activity, as long as the person prevents or minimizes physical contact between the dog and the wildlife, and the hazing is being done only for the purposes of wildlife control and the prevention of damage to commercial crops.

(b) For the purposes of this subsection, "hazing" means the act of chasing or herding wildlife in an effort to move them from one location to another. [2014 c 48 § 11; 2012 c 176 § 18; 1998 c 190 § 30.]

77.15.245 Unlawful practices—Black bear baiting—Exceptions—Illegal hunting—Use of dogs—Exceptions—Penalties. (1) Notwithstanding the provisions of RCW 77.12.240, 77.36.030, or any other provisions of law, it is unlawful to take, hunt, or attract black bear with the aid of bait.

(a) Nothing in this subsection shall be construed to prohibit the killing of black bear with the aid of bait by employees or agents of county, state, or federal agencies while acting in their official capacities for the purpose of protecting livestock, domestic animals, private property, or the public safety.

(b) Nothing in this subsection shall be construed to prevent the establishment and operation of feeding stations for black bear in order to prevent damage to commercial timberland.

(c) Nothing in this subsection shall be construed to prohibit the director from issuing a permit or memorandum of understanding to a public agency, university, or scientific or educational institution for the use of bait to attract black bear for scientific purposes.

(d) As used in this subsection, "bait" means a substance placed, exposed, deposited, distributed, scattered, or otherwise used for the purpose of attracting black bears to an area where one or more persons hunt or intend to hunt them.

(2) Notwithstanding RCW 77.12.240, 77.36.030, or any other provisions of law, it is unlawful to hunt or pursue black bear, cougar, or bobcat with the aid of a dog or dogs.

(a) Nothing in this subsection shall be construed to prohibit the hunting of black bear, cougar, or bobcat with the aid of a dog or dogs by employees or agents of county, state, or federal agencies while acting in their official capacities for the purpose of protecting livestock, domestic animals, private property, or the public safety. A dog or dogs may be used by the owner or tenant of real property consistent with a permit issued and conditioned by the director.

(b) Nothing in this subsection shall be construed to prohibit the director from issuing a permit or memorandum of understanding to a public agency, university, or scientific or educational institution for the use of a dog or dogs for the pursuit, capture and relocation, of black bear, cougar, or bobcat for scientific purposes.

(c) Nothing in this subsection shall be construed to prohibit the director from issuing a permit or memorandum of understanding to a public agency, university, or scientific or educational institution for the use of a dog or dogs for the killing of black bear, cougar, or bobcat, for the protection of a state and/or federally listed threatened or endangered species.

(d) Nothing in this subsection may be construed to prohibit nonlethal pursuit training of dogs by persons selected through the process established in RCW 77.12.077 for future use for the purpose of protecting livestock, domestic animals, private property, or the public safety.

(3) Notwithstanding subsection (2) of this section, the commission may authorize the use of dogs only in selected areas within a game management unit to address a public safety need presented by one or more cougar. This authority may only be exercised after the commission has determined that no other practical alternative to the use of dogs exists, and after the commission has adopted rules describing the conditions in which dogs may be used. Conditions that may warrant the use of dogs within a game management unit include, but are not limited to, confirmed cougar/human safety incidents, confirmed cougar/livestock and cougar/pet depredations, and the number of cougar capture attempts and relocations.

(4) A person who violates subsection (1) or (2) of this section is guilty of a gross misdemeanor. In addition to appropriate criminal penalties, the department shall revoke the hunting license of a person who violates subsection (1) or (2) of this section and order the suspension of wildlife hunting privileges for a period of five years following the revocation. Following a subsequent violation of subsection (1) or (2) of this section by the same person, a hunting license shall not be issued to the person at any time. [2019 c 226 § 2; 2005 c 107 § 1; 2001 c 253 § 31. Prior: 2000 c 248 § 1; 2000 c 107 § 260; 1997 c 1 § 1 (Initiative Measure No. 655, approved November 5, 1996). Formerly RCW 77.16.360.]

Additional notes found at www.leg.wa.gov

77.15.250 Unlawful release or possession of fish, shellfish, or wildlife—Penalty—Unlawful release of deleterious exotic wildlife—Penalty. (1)(a) A person is guilty of unlawfully releasing, planting, possessing, or placing fish, shellfish, or wildlife if the person knowingly releases, plants, possesses, or places live fish, shellfish, wildlife, or aquatic plants within the state in violation of this title or rule of the department, and the fish, shellfish, or wildlife have not been classified as deleterious wildlife. This subsection does not apply to a release of game fish into private waters for which a game fish stocking permit has been obtained, or the planting of fish or shellfish by permit of the commission.

(b) A violation of this subsection is a gross misdemeanor. In addition, the department shall order the person to pay all costs the department incurred in capturing, killing, or controlling the fish, shellfish, aquatic plants, wildlife, or progeny unlawfully released, planted, possessed, or placed. This does not affect the existing authority of the department to bring a separate civil action to recover costs of capturing, killing, or controlling the fish, shellfish, aquatic plants, wildlife, or progeny unlawfully released, planted, possessed, or placed, or the costs of habitat restoration necessitated by the unlawful release, planting, possession, or placing.

(2)(a) A person is guilty of unlawfully releasing, planting, possessing, or placing deleterious exotic wildlife if the person knowingly releases, plants, possesses, or places live fish, shellfish, or wildlife within the state in violation of this title or rule of the department, and the fish, shellfish, or wildlife have been classified as deleterious exotic wildlife by rule of the commission.

(b) A violation of this subsection is a class C felony. In addition, the department shall order the person to pay all costs the department incurred in capturing, killing, or controlling the fish, shellfish, wildlife, or progeny unlawfully released, planted, possessed, or placed. This does not affect the existing authority of the department to bring a separate civil action to recover costs of capturing, killing, or controlling the fish, shellfish, wildlife, or progeny unlawfully released, planted, possessed, or placed, or the costs of habitat restoration necessitated by the unlawful release, planting, possession, or placing. [2014 c 48 § 12; 2001 c 253 § 32; 1998 c 190 § 31.]

77.15.260 Unlawful trafficking in fish, shellfish, or wildlife—Penalty. (1) A person is guilty of unlawful trafficking in fish, shellfish, or wildlife in the second degree if the person traffics in fish, shellfish, or wildlife with a wholesale value of less than two hundred fifty dollars and:

(a) The fish, shellfish, or wildlife is classified as game, food fish, shellfish, game fish, or protected wildlife and the trafficking is not authorized by statute or department rule; or

(b) The fish, shellfish, or wildlife is unclassified and the trafficking violates any department rule.

(2)(a) A person is guilty of unlawful trafficking in fish, shellfish, or wildlife in the first degree if the person commits the act described by subsection (1) of this section and:

(i) The fish, shellfish, or wildlife has a value of two hundred fifty dollars or more; or

(ii) The fish, shellfish, or wildlife is designated as an endangered species or deleterious exotic wildlife and such trafficking is not authorized by any statute or department rule.

(b) For purposes of this subsection (2), whenever any series of transactions that constitute unlawful trafficking would, when considered separately, constitute unlawful trafficking in the second degree due to the value of the fish, shellfish, or wildlife, and the series of transactions are part of a common scheme or plan, then the transactions may be aggregated in one count and the sum of the value of all the transactions considered when determining the degree of unlawful trafficking involved.

(3)(a) Unlawful trafficking in fish, shellfish, or wildlife in the second degree is a class C felony.

(b) Unlawful trafficking in fish, shellfish, or wildlife in the first degree is a class B felony. [2015 c 141 § 1; 2012 c 176 § 19; 2001 c 253 § 33; 1998 c 190 § 42.]

77.15.265 Unlawful possession of fish, shellfish, or wildlife knowingly taken in violation of another state's or country's laws—Penalty. (1) It is unlawful for any person to possess in Washington any fish, shellfish, or wildlife that the person knows was taken in another state or country in violation of that state's or country's laws or regulations relating

to licenses or tags, seasons, areas, methods, or bag or possession limits.

(2) As used in this section, the terms "fish," "shellfish," and "wildlife" have the meaning ascribed to those terms in the applicable law or regulation of the state or country of the fish's, shellfish's, or wildlife's origin.

(3) Unlawful possession of fish, shellfish, or wildlife taken or possessed in violation of another state's or country's laws or regulations is a gross misdemeanor. [2014 c 48 § 24.]

77.15.270 Providing false information—Penalty. (1) A person is guilty of providing false information regarding fish, shellfish, or wildlife if the person knowingly provides false or misleading information required by any statute or rule to be provided to the department regarding the taking, delivery, possession, transportation, sale, transfer, or any other use of fish, shellfish, or wildlife.

(2) Providing false information regarding fish, shellfish, or wildlife is a gross misdemeanor. [2001 c 253 § 34; 1998 c 190 § 46.]

77.15.280 Reporting of fish or wildlife harvest—Rules violation—Penalty. (1) A person is guilty of violating rules requiring reporting of fish or wildlife harvest if the person:

(a) Fails to make a harvest log report of a commercial fish or shellfish catch in violation of any department rule; or

(b) Fails to submit any portion of a big game animal for an inspection as required by department rule.

(2) Violating rules requiring reporting of fish or wildlife harvest is a misdemeanor. [2012 c 176 § 20; 2008 c 244 § 2; 2005 c 418 § 2; 1998 c 190 § 47.]

77.15.290 Unlawful transportation of fish or wildlife—Penalty. (1) A person is guilty of unlawful transportation of fish or wildlife in the second degree if the person:

(a) Knowingly imports, moves within the state, or exports fish, shellfish, or wildlife in violation of any department rule governing the transportation or movement of fish, shellfish, or wildlife and the transportation does not involve big game, endangered fish or wildlife, deleterious exotic wildlife, or fish, shellfish, or wildlife having a value greater than two hundred fifty dollars; or

(b) Possesses but fails to affix or notch a big game transport tag as required by department rule.

(2) A person is guilty of unlawful transportation of fish or wildlife in the first degree if the person:

(a) Knowingly imports, moves within the state, or exports fish, shellfish, or wildlife in violation of any department rule governing the transportation or movement of fish, shellfish, or wildlife and the transportation involves big game, endangered fish or wildlife, deleterious exotic wildlife, or fish, shellfish, or wildlife with a value of two hundred fifty dollars or more; or

(b) Knowingly transports shellfish, shellstock, or equipment used in commercial culturing, taking, handling, or processing shellfish without a permit required by authority of this title.

(3)(a) Unlawful transportation of fish or wildlife in the second degree is a misdemeanor.

(b) Unlawful transportation of fish or wildlife in the first degree is a gross misdemeanor.

(4) This section does not apply to invasive species. [2014 c 202 § 304; 2012 c 176 § 21; 2007 c 350 § 6; 2002 c 281 § 7; 2001 c 253 § 35; 1998 c 190 § 48.]

Findings—2014 c 202: See note following RCW 77.135.010.

Purpose—2002 c 281: See note following RCW 77.08.010.

77.15.300 Unlawful hydraulic project activities—

Penalty. (1) A person is guilty of unlawfully undertaking hydraulic project activities if the person constructs any form of hydraulic project or performs other work on a hydraulic project and:

(a) Fails to have a hydraulic project approval required under chapter 77.55 RCW for such construction or work; or

(b) Violates any requirements or conditions of the hydraulic project approval for such construction or work.

(2) Unlawfully undertaking hydraulic project activities is a gross misdemeanor. [2000 c 107 § 239; 1998 c 190 § 52.]

77.15.310 Unlawful failure to use or maintain approved fish guard on water diversion device—Penalty.

(1) A person is guilty of unlawful failure to use or maintain an approved fish guard on a diversion device if the person owns, controls, or operates a device used for diverting or conducting water from a lake, river, or stream and:

(a) The device is not equipped with a fish guard, screen, or bypass approved by the director as required by RCW 77.57.010 or 77.57.070; or

(b) The person knowingly fails to maintain or operate an approved fish guard, screen, or bypass so as to effectively screen or prevent fish from entering the intake.

(2) Unlawful failure to use or maintain an approved fish guard, screen, or bypass on a diversion device is a gross misdemeanor. Following written notification to the person from the department that there is a violation, each day that a diversion device is operated without an approved or maintained fish guard, screen, or bypass is a separate offense. [2009 c 333 § 3; 2003 c 39 § 38; 2000 c 107 § 240; 1998 c 190 § 53.]

77.15.320 Unlawful failure to provide, maintain, or operate fishway for dam or other obstruction—Penalty.

(1) A person is guilty of unlawful failure to provide, maintain, or operate a fishway for dam or other obstruction if the person owns, operates, or controls a dam or other obstruction to fish passage on a river or stream and:

(a) The dam or obstruction is not provided with a durable and efficient fishway approved by the director as required by RCW 77.57.030;

(b) Fails to maintain a fishway in efficient operating condition; or

(c) Fails to continuously supply a fishway with a sufficient supply of water to allow the free passage of fish.

(2) Unlawful failure to provide, maintain, or operate a fishway for dam or other obstruction is a gross misdemeanor. Following written notification to the person from the department that there is a violation, each day of unlawful failure to provide, maintain, or operate a fishway is a separate offense. [2009 c 333 § 4; 2000 c 107 § 241; 1998 c 190 § 54.]

(2021 Ed.)

77.15.340 Unlawful operation of a game farm—Penalty. (1) A person is guilty of unlawful operation of a game farm if the person (a) operates a game farm without the license required by RCW 77.65.480; or (b) violates any rule of the commission or the director applicable to game farms under RCW 77.12.570, 77.12.580, and 77.12.590.

(2) Unlawful operation of a game farm is a gross misdemeanor. [2001 c 253 § 37; 1998 c 190 § 57.]

77.15.350 Inspection and disease control of aquatic farms—Rules violation—Penalty. (1) A person is guilty of violating a rule regarding inspection and disease control of aquatic farms if the person:

(a) Violates any rule adopted under chapter 77.115 RCW regarding the inspection and disease control program for an aquatic farm; or

(b) Fails to register or report production from an aquatic farm as required by chapter 77.115 RCW.

(2) A violation of a rule regarding inspection and disease control of aquatic farms is a misdemeanor. [2000 c 107 § 242; 1998 c 190 § 58.]

77.15.360 Unlawful interfering in department operations—Penalty. (1) A person is guilty of unlawful interfering in department operations if the person prevents department employees from carrying out duties authorized by this title, including but not limited to interfering:

(a) In the operation of department vehicles, vessels, or aircraft;

(b) With the collection of samples of tissue, fluids, or other bodily parts of fish, wildlife, and shellfish under RCW 77.12.071; or

(c) With actions authorized by a warrant issued under RCW 77.135.170 or 77.15.807.

(2) Unlawful interfering in department operations is a gross misdemeanor. [2014 c 202 § 308; 2007 c 337 § 3; 2000 c 107 § 243; 1998 c 190 § 61.]

Findings—2014 c 202: See note following RCW 77.135.010.

Intent—Finding—2007 c 337: See note following RCW 77.12.071.

77.15.370 Unlawful recreational fishing in the first degree—Penalty—Criminal wildlife penalty assessment.

(1) A person is guilty of unlawful recreational fishing in the first degree if:

(a) The person takes or possesses two times or more than the bag limit or possession limit of fish or shellfish allowed by any rule of the director or commission setting the amount of food fish, game fish, or shellfish that can be taken or possessed for noncommercial use;

(b) The person fishes in a fishway;

(c) The person shoots, gaffs, snags, snares, spears, dipnets, or stones fish or shellfish in state waters, or possesses fish or shellfish taken by such means, unless such means are authorized by express department rule;

(d) The person fishes for or possesses a fish listed as threatened or endangered in 50 C.F.R. Sec. 223.102 (2006) or Sec. 224.101 (2010), unless fishing for or possessing such fish is specifically allowed under federal or state law;

(e) The person possesses a white sturgeon measuring in excess of the maximum size limit as established by rules adopted by the department;

(f) The person possesses a green sturgeon of any size; or
 (g)(i) The person possesses a wild salmon or wild steelhead during a season closed for wild salmon or wild steelhead.

(ii) For the purposes of this subsection:

(A) "Wild salmon" means a salmon with an unclipped adipose fin, regardless of whether the salmon's ventral fin is clipped. A salmon is considered to have an unclipped adipose fin if it does not have a healed scar at the location of the clipped adipose fin.

(B) "Wild steelhead" means a steelhead with no fins clipped.

(2) Unlawful recreational fishing in the first degree is a gross misdemeanor.

(3) In addition to the penalties set forth in subsection (2) of this section, if a person is convicted of violating this section and the violation results in the death of fish listed in this subsection, the court shall require payment of the following amounts for each fish taken or possessed. This is a criminal wildlife penalty assessment that must be paid to the clerk of the court and distributed each month to the state treasurer for deposit in the fish and wildlife enforcement reward account created in RCW 77.15.425:

(a) White sturgeon longer than fifty-five inches in fork length, two thousand dollars;

(b) Green sturgeon, two thousand dollars; and

(c) Wild salmon or wild steelhead, five hundred dollars.

(4) If two or more persons are convicted under subsection (1) of this section, and subsection (3) of this section is applicable, the criminal wildlife penalty assessment must be imposed against the persons jointly and severally.

(5)(a) The criminal wildlife penalty assessment under subsection (3) of this section must be imposed regardless of and in addition to any sentence, fines, or costs otherwise provided for violating any provision of this section. The criminal wildlife penalty assessment must be included by the court in any pronouncement of sentence and may not be suspended, waived, modified, or deferred in any respect.

(b) This subsection may not be construed to abridge or alter alternative rights of action or remedies in equity or under common law or statutory law, criminal or civil.

(6) A defaulted criminal wildlife penalty assessment authorized under subsection (3) of this section may be collected by any means authorized by law for the enforcement of orders of the court or collection of a fine or costs, including but not limited to vacation of a deferral of sentencing or vacation of a suspension of sentence.

(7) The department shall revoke the fishing license and suspend the fishing privileges of a person assessed a criminal wildlife penalty assessment under this section until the penalty assessment is paid through the registry of the court in which the penalty assessment was assessed.

(8) The criminal wildlife penalty assessments provided in subsection (3) of this section must be doubled in the following instances:

(a) When a person commits a violation that requires payment of a criminal wildlife penalty assessment within five years of a prior gross misdemeanor or felony conviction under this title; or

(b) When the trier of fact determines that the person took or possessed the fish in question with the intent of bartering,

selling, or otherwise deriving economic profit from the fish or fish parts. [2016 c 64 § 1; 2014 c 48 § 13; 2012 c 176 § 22; 2009 c 333 § 17; 2005 c 406 § 3; 2001 c 253 § 38; 1998 c 190 § 19.]

77.15.380 Unlawful recreational fishing in the second degree—Penalty. (1) A person is guilty of unlawful recreational fishing in the second degree if the person fishes for fish or shellfish and, whether or not the person possesses fish or shellfish, the person has not purchased the appropriate fishing or shellfishing license and catch record card issued to Washington residents or nonresidents under chapter 77.32 RCW.

(2) A person is guilty of unlawful recreational fishing in the second degree if the person takes or possesses fish or shellfish and:

(a) The person owns, but does not have in the person's possession, the license or the catch record card required by chapter 77.32 RCW for such activity; or

(b) The action violates any department rule regarding seasons, bag or possession limits but less than two times the bag or possession limit, closed areas, closed times, or any other rule addressing the manner or method of fishing for, taking, or possessing fish or shellfish. This section does not apply to use of a net to take fish under RCW 77.15.580 or the unlawful use of shellfish gear for personal use under RCW 77.15.382.

(3) Unlawful recreational fishing in the second degree is a misdemeanor. [2014 c 48 § 14; 2012 c 176 § 23; 2010 c 193 § 5; 2001 c 253 § 39; 2000 c 107 § 244; 1998 c 190 § 18.]

77.15.382 Unlawful use of shellfish gear for personal use purposes—Penalty. (1) A person is guilty of the unlawful use of shellfish gear for personal use purposes if the person:

(a) Takes, fishes for, or possesses crab, shrimp, or crawfish for personal use purposes with shellfish gear that is constructed or altered in a manner that violates any rule of the commission relating to required gear design specifications; or

(b) Is found in possession of, upon any vessel located on the waters of the state, shellfish gear that is constructed or altered in a manner that violates any rule of the commission relating to required gear design specifications, unless a person holds a valid crab pot removal permit under RCW 77.70.500 and is in the process of transporting removed crab pots as part of the Dungeness crab pot removal program.

(2) The unlawful use of shellfish gear for personal use purposes is a misdemeanor. [2010 c 193 § 2.]

77.15.390 Seaweed—Unlawful taking—Penalty. (1) A person is guilty of unlawful taking of seaweed if the person takes or possesses seaweed and:

(a) The person has not purchased a personal use shellfish and seaweed license issued to Washington residents or nonresidents under chapter 77.32 RCW; or

(b) The person takes or possesses seaweed in an amount that is two times or more of the daily possession limit of seaweed.

(2) Unlawful taking of seaweed is a misdemeanor. This does not affect rights of the state to recover civilly for trespass, conversion, or theft of state-owned valuable materials.

[2014 c 48 § 15; 2012 c 176 § 24; 2001 c 253 § 40; 2000 c 107 § 245; 1998 c 190 § 20.]

77.15.395 Hunter safety—Visible clothing requirement—Penalty. (1) For the purpose of hunter safety, the commission must adopt rules determining the times and manner when a person hunting must wear either fluorescent orange or fluorescent pink clothing or both. The rules must allow a person hunting to wear either fluorescent orange or fluorescent pink clothing, or both, in order to meet a visible clothing requirement when hunting.

(2) A violation of this section is an infraction punishable under RCW 77.15.160. [2019 c 58 § 1.]

77.15.400 Unlawful hunting of wild birds—Violation of a rule requiring nontoxic shot—Penalty. (1) A person is guilty of unlawful hunting of wild birds in the second degree if the person hunts for wild birds and, whether or not the person possesses wild birds, the person has not purchased the appropriate hunting license, tags, stamps, and permits issued to Washington residents or nonresidents under chapter 77.32 RCW.

(2) A person is guilty of unlawful hunting of wild birds in the second degree if the person takes or possesses less than two times the bag or possession limit of wild birds and the person:

(a) Owns, but does not have in the person's possession, all licenses, tags, stamps, and permits required under this title; or

(b) Violates any department rule regarding seasons, bag or possession limits, closed areas, closed times, or the manner or method of hunting or possession of wild birds.

(3) A person is guilty of unlawful hunting of wild birds in the first degree if the person takes or possesses two times or more than the possession or bag limit for wild birds allowed by department rule.

(4)(a) Unlawful hunting of wild birds in the second degree is a misdemeanor.

(b) Unlawful hunting of wild birds in the first degree is a gross misdemeanor.

(5) In addition to the penalties set forth in this section, if a person, other than a youth as defined in RCW 77.08.010 for hunting purposes, violates a department rule that requires the use of nontoxic shot, upon conviction:

(a) The court shall require a payment of one thousand dollars as a criminal wildlife penalty assessment that must be paid to the clerk of the court and distributed to the state treasurer for deposit in the fish and wildlife enforcement reward account created in RCW 77.15.425. The criminal wildlife penalty assessment must be imposed regardless of and in addition to any sentence, fine, or costs imposed for violating this section. The criminal wildlife penalty assessment must be included by the court in any pronouncement of sentence and may not be suspended, waived, modified, or deferred in any respect; and

(b) The department shall revoke the hunting license of the person and order a suspension of small game hunting privileges for two years. [2016 c 64 § 2; 2012 c 176 § 25; 2006 c 148 § 1; 2001 c 253 § 41; 1999 c 258 § 2; 1998 c 190 § 9.]

(2021 Ed.)

77.15.410 Unlawful hunting of big game—Penalty. (1) A person is guilty of unlawful hunting of big game in the second degree if the person:

(a) Hunts for, takes, or possesses big game and the person does not have and possess all licenses, tags, or permits required under this title; or

(b) Violates any department rule regarding seasons, bag or possession limits, closed areas including game reserves, closed times, or any other rule governing the hunting, taking, or possession of big game.

(2) A person is guilty of unlawful hunting of big game in the first degree if the person commits the act described in subsection (1) of this section and:

(a) The person hunts for, takes, or possesses three or more big game animals within the same course of events; or

(b) The act occurs within five years of the date of a prior conviction under this title involving unlawful hunting, killing, possessing, or taking big game.

(3)(a) Unlawful hunting of big game in the second degree is a gross misdemeanor. Upon conviction of an offense involving killing or possession of big game taken during a closed season, closed area, without the proper license, tag, or permit using an unlawful method, or in excess of the bag or possession limit, the department shall revoke all of the person's hunting licenses and tags and order a suspension of the person's hunting privileges for two years.

(b) Unlawful hunting of big game in the first degree is a class C felony. Upon conviction, the department shall revoke all of the person's hunting licenses or tags and order the person's hunting privileges suspended for ten years.

(4) For the purposes of this section, "same course of events" means within one twenty-four hour period, or a pattern of conduct composed of a series of acts that are unlawful under subsection (1) of this section, over a period of time evidencing a continuity of purpose. [2012 c 176 § 26; 2011 c 133 § 1; 2005 c 406 § 4; 1999 c 258 § 3; 1998 c 190 § 10.]

77.15.420 Illegally taken or possessed wildlife—Criminal wildlife penalty assessed. (1) If an adult offender is convicted of violating RCW 77.15.410 and that violation results in the death of wildlife listed in this section, the court shall require payment of the following amounts for each animal taken or possessed. This shall be a criminal wildlife penalty assessment that shall be paid to the clerk of the court and distributed each month to the state treasurer for deposit in the fish and wildlife enforcement reward account created in RCW 77.15.425.

- (a) Moose, mountain sheep, mountain goat, and all wildlife species classified as endangered by rule of the commission, except for mountain caribou and grizzly bear as listed under (d) of this subsection \$4,000
- (b) Elk, deer, black bear, and cougar \$2,000
- (c) Trophy animal elk and deer \$6,000
- (d) Mountain caribou, grizzly bear, and trophy animal mountain sheep \$12,000

(2)(a) For the purpose of this section a "trophy animal" is:

- (i) A buck deer with four or more antler points on both sides, not including eyeguards;
- (ii) A bull elk with five or more antler points on both sides, not including eyeguards; or
- (iii) A mountain sheep with a horn curl of three-quarter curl or greater.

(b) For purposes of this subsection, "eyeguard" means an antler protrusion on the main beam of the antler closest to the eye of the animal.

(3) If two or more persons are convicted of illegally possessing wildlife in subsection (1) of this section, the criminal wildlife penalty assessment shall be imposed on them jointly and severally.

(4) The criminal wildlife penalty assessment shall be imposed regardless of and in addition to any sentence, fines, or costs otherwise provided for violating any provision of this title. The criminal wildlife penalty assessment shall be included by the court in any pronouncement of sentence and may not be suspended, waived, modified, or deferred in any respect. This section may not be construed to abridge or alter alternative rights of action or remedies in equity or under common law or statutory law, criminal or civil.

(5) A defaulted criminal wildlife penalty assessment may be collected by any means authorized by law for the enforcement of orders of the court or collection of a fine or costs, including but not limited to vacation of a deferral of sentencing or vacation of a suspension of sentence.

(6) A person assessed a criminal wildlife penalty assessment under this section shall have his or her hunting license revoked and all hunting privileges suspended until the penalty assessment is paid through the registry of the court in which the penalty assessment was assessed. This revocation and suspension is in addition to and runs concurrently with any revocation and suspension required by law.

(7) The criminal wildlife penalty assessments provided in subsection (1) of this section shall be doubled in the following instances:

(a) When a person is convicted of spotlighting big game under RCW 77.15.450;

(b) When a person commits a violation that requires payment of a wildlife penalty assessment within five years of a prior gross misdemeanor or felony conviction under this title;

(c) When the trier of fact determines that the person took or possessed the animal in question with the intent of bartering, selling, or otherwise deriving economic profit from the animal or the animal's parts; or

(d) When the trier of fact determines that the person took the animal under the supervision of a licensed guide. [2016 c 64 § 3; 2015 c 265 § 38; 2014 c 48 § 16; 2005 c 406 § 5; 1998 c 190 § 62.]

Finding—Intent—2015 c 265: See note following RCW 13.50.010.

77.15.425 Fish and wildlife enforcement reward account. The fish and wildlife enforcement reward account is created in the custody of the state treasurer. Deposits to the account include: Receipts from fish and shellfish overages as a result of a department enforcement action; fees for hunter education deferral applications; fees for master hunter applications and master hunter certification renewals; all receipts

from criminal wildlife penalty assessments under this chapter; all receipts of court-ordered restitution or donations associated with any fish, shellfish, or wildlife enforcement action; and proceeds from forfeitures and evidence pursuant to RCW 77.15.070 and 77.15.100. The department may accept money or personal property from persons under conditions requiring the property or money to be used consistent with the intent of expenditures from the fish and wildlife enforcement reward account. Expenditures from the account may be used only for investigation and prosecution of fish and wildlife offenses, to provide rewards to persons informing the department about violations of this title and rules adopted under this title, to offset department-approved costs incurred to administer the hunter education deferral program and the master hunter permit program, and for other valid enforcement uses as determined by the commission. Only the director or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. [2016 c 2 § 6 (Initiative Measure No. 1401, approved November 3, 2015); 2014 c 48 § 17; 2009 c 333 § 18; 2006 c 148 § 2; 2005 c 406 § 1.]

Finding—2016 c 2 (Initiative Measure No. 1401): See note following RCW 77.15.135.

77.15.430 Unlawful hunting of wild animals—Penalty. (1) A person is guilty of unlawful hunting of wild animals in the second degree if the person hunts for wild animals not classified as big game and, whether or not the person possesses the wild animals, the person has not purchased the appropriate hunting license issued to Washington residents or nonresidents under chapter 77.32 RCW.

(2) A person is guilty of unlawful hunting of wild animals in the second degree if the person:

(a) Takes or possesses a wild animal that is not classified as big game, and owns, but does not have in the person's possession, all licenses, tags, or permits required by this title; or

(b) Violates any department rule regarding seasons, bag or possession limits but less than two times the bag or possession limit, closed areas including game reserves, closed times, or any other rule addressing the manner or method of hunting or possession of wild animals not classified as big game.

(3) A person is guilty of unlawful hunting of wild animals in the first degree if the person takes or possesses two times or more than the possession or bag limit for wild animals that are not classified as big game animals as allowed by department rule.

(4)(a) Unlawful hunting of wild animals in the second degree is a misdemeanor.

(b) Unlawful hunting of wild animals in the first degree is a gross misdemeanor. [2012 c 176 § 27; 1999 c 258 § 4; 1998 c 190 § 11.]

77.15.435 Unlawful hunting on, retrieving hunted wildlife from, or collecting wildlife parts from the property of another—Defense—Penalty—Forfeiture and disposition of wildlife. (1) A person is guilty of unlawfully hunting on, retrieving hunted wildlife from, or collecting wildlife parts from the property of another if the person

knowingly enters or remains unlawfully in or on the premises of another for the purpose of:

- (a) Hunting for wildlife;
- (b) Retrieving hunted wildlife; or
- (c) Collecting wildlife parts.

(2) In any prosecution under this section, it is a defense that:

(a) The premises were at the time open to members of the public for the purpose of hunting, and the actor complied with all lawful conditions imposed on access to or remaining on the premises;

(b) The actor reasonably believed that the owner of the premises, or other person empowered to license access to the premises, would have licensed him or her to enter or remain on the premises for the purpose of hunting, retrieving hunted wildlife, or collecting wildlife parts;

(c) The actor reasonably believed that the premises were not privately owned; or

(d) The actor, after making all reasonable attempts to contact the owner of the premises, entered the premises to retrieve the hunted wildlife for the sole purpose of avoiding a violation of the prohibition on the waste of fish and wildlife as provided in RCW 77.15.170. The defense in this subsection only applies to the retrieval of hunted wildlife and not to the actual act of hunting itself or the collecting of wildlife parts.

(3) Unlawfully hunting on, retrieving hunted wildlife from, or collecting wildlife parts from the property of another is a misdemeanor.

(4) If a person unlawfully hunts and kills wildlife, or retrieves hunted wildlife that he or she has killed, on the property of another, then, upon conviction under this section, the department shall revoke all hunting licenses and tags and order a suspension of the person's hunting privileges for two years. This subsection does not apply to a person convicted under this section for unlawfully collecting wildlife parts from the property of another.

(5) Any wildlife or wildlife parts that are unlawfully hunted on, retrieved, or collected from the property of another must be seized by fish and wildlife officers. Forfeiture and disposition of the wildlife or wildlife parts is pursuant to RCW 77.15.100. [2015 c 154 § 1; 2012 c 176 § 11.]

77.15.440 Weapons, traps, or dogs on game reserves—Unlawful use—Penalty. (1) A person is guilty of unlawful use of weapons, traps, or dogs on game reserves if:

(a) The person uses firearms, other hunting weapons, or traps on a game reserve; or

(b) The person negligently allows a dog upon a game reserve.

(2) This section does not apply to persons on a public highway or if the conduct is authorized by rule of the department.

(3) This section does not apply to a person in possession of a handgun if the person in control of the handgun possesses a valid concealed pistol license and the handgun is concealed on the person.

(4) Unlawful use of weapons, traps, or dogs on game reserves is a misdemeanor. [1998 c 190 § 12.]

(2021 Ed.)

77.15.450 Spotlighting big game—Penalty. (1) A person is guilty of spotlighting big game in the second degree if the person hunts big game with the aid of a spotlight, other artificial light, or night vision equipment while in possession or control of a firearm, bow and arrow, or cross bow. For purposes of this section, "night vision equipment" includes electronic light amplification devices, thermal imaging devices, and other comparable equipment used to enhance night vision.

(2) A person is guilty of spotlighting big game in the first degree if:

(a) The person has any prior conviction for gross misdemeanor or felony for a crime under this title involving big game including but not limited to subsection (1) of this section or RCW 77.15.410; and

(b) Within ten years of the date that such prior conviction was entered the person commits the act described by subsection (1) of this section.

(3)(a) Spotlighting big game in the second degree is a gross misdemeanor. Upon conviction, the department shall revoke all hunting licenses and tags and order a suspension of the person's hunting privileges for two years.

(b) Spotlighting big game in the first degree is a class C felony. Upon conviction, the department shall order suspension of all privileges to hunt wildlife for a period of ten years.

(4) A person convicted under this section shall be assessed a criminal wildlife penalty assessment as provided in RCW 77.15.420. [2005 c 406 § 6; 1998 c 190 § 27.]

77.15.460 Loaded rifle or shotgun in vehicle—Unlawful use or possession—Unlawful use of a loaded firearm—Penalty. (1) A person is guilty of unlawful possession of a loaded rifle or shotgun in a motor vehicle, as defined in RCW 46.04.320, or upon an off-road vehicle, as defined in RCW 46.04.365, if:

(a) The person carries, transports, conveys, possesses, or controls a rifle or shotgun in a motor vehicle, or upon an off-road vehicle, except as allowed by department rule; and

(b) The rifle or shotgun contains shells or cartridges in the magazine or chamber, or is a muzzle-loading firearm that is loaded and capped or primed.

(2) A person is guilty of unlawful use of a loaded firearm if:

(a) The person negligently discharges a firearm from, across, or along the maintained portion of a public highway; or

(b) The person discharges a firearm from within a moving motor vehicle or from upon a moving off-road vehicle.

(3) Unlawful possession of a loaded rifle or shotgun in a motor vehicle or upon an off-road vehicle, and unlawful use of a loaded firearm are misdemeanors.

(4) This section does not apply if the person:

(a) Is a law enforcement officer who is authorized to carry a firearm and is on duty within the officer's respective jurisdiction;

(b) Has been granted a disability designation as provided by RCW 77.32.237 and complies with all rules of the department concerning hunting by persons with disabilities; or

(c) Discharges the rifle or shotgun from upon a nonmoving motor vehicle, as long as the engine is turned off and the motor vehicle is not parked on or beside the maintained por-

tion of a public road, except as authorized by the commission by rule. This subsection (4)(c) does not apply to off-road vehicles, which are unlawful to use for hunting under RCW 46.09.480, unless the person has a department permit issued under RCW 77.32.237.

(5) For purposes of subsection (1) of this section, a rifle or shotgun shall not be considered loaded if the detachable clip or magazine is not inserted in or attached to the rifle or shotgun. [2018 c 168 § 1; 2014 c 48 § 18; 2012 c 176 § 28; 1999 c 258 § 7; 1998 c 190 § 28.]

77.15.470 Wildlife check stations or field inspections—Unlawful avoidance—Penalty. (1) A person is guilty of unlawfully avoiding wildlife check stations or field inspections if the person fails to:

- (a) Obey check station signs;
- (b) Stop and report at a check station if directed to do so by a uniformed fish and wildlife officer or if directed by an ex officio fish and wildlife officer participating in a department-authorized check station; or
- (c) Produce for inspection upon request by a fish and wildlife officer or ex officio fish and wildlife officer: (i) Hunting or fishing equipment; (ii) seaweed, fish, shellfish, or wildlife; or (iii) licenses, permits, tags, stamps, or catch record cards required by this title.

(2) Unlawfully avoiding wildlife check stations or field inspections is a gross misdemeanor.

(3) Wildlife check stations may not be established upon interstate highways or state routes. [2014 c 48 § 19; 2000 c 107 § 246; 1998 c 190 § 29.]

77.15.480 Certain devices declared public nuisances. Articles or devices unlawfully used, possessed, or maintained for taking, harassing, attracting, or decoying wildlife, fish, and shellfish are public nuisances. If necessary, fish and wildlife officers and ex officio fish and wildlife officers may seize, abate, or destroy these public nuisances without warrant or process. [2014 c 48 § 20; 2001 c 253 § 42; 2000 c 107 § 247; 1980 c 78 § 27; 1955 c 36 § 77.12.130. Prior: 1947 c 275 § 23; Rem. Supp. 1947 § 5992-33. Formerly RCW 77.12.130.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.15.500 Commercial fishing without a license—Penalty. (1) A person is guilty of commercial fishing without a license in the second degree if the person fishes for, takes, or delivers fish or shellfish while acting for commercial purposes and:

- (a) The person does not hold a fishery license or delivery license under chapter 77.65 RCW for the fish or shellfish;
- (b) The person is not a licensed operator designated as an alternate operator on a fishery or delivery license under chapter 77.65 RCW for the fish or shellfish; or
- (c) The person does not hold a crewmember license when required under RCW 77.65.610.

(2) A person is guilty of commercial fishing without a license in the first degree if the person commits the act described by subsection (1) of this section and:

(a) The violation involves taking, delivery, or possession of fish or shellfish with a value of two hundred fifty dollars or more; or

(b) The violation involves taking, delivery, or possession of fish or shellfish from an area that was closed to the taking of the fish or shellfish by any statute or rule.

(3)(a) Commercial fishing without a license in the second degree is a gross misdemeanor.

(b) Commercial fishing without a license in the first degree is a class C felony. [2017 3rd sp.s. c 8 § 10; 2000 c 107 § 248; 1998 c 190 § 35.]

Finding—Intent—Effective date—2017 3rd sp.s. c 8: See notes following RCW 77.08.010.

77.15.510 Acting as a game fish guide, food fish guide, or chartering without a license—Penalty. (1) A person is guilty of acting as a game fish guide, food fish guide, or chartering without a license if:

(a) The person operates a charter boat and does not hold the charter boat license required for the food fish taken;

(b) The person acts as a food fish guide and does not hold a food fish guide license; or

(c) The person acts as a game fish guide and does not hold a game fish guide license.

(2) Acting without a game fish guide license, food fish guide license, or charter license is a gross misdemeanor. Upon conviction, the department may deny applications submitted by the person for a game fish guide license, food fish guide license, or charter boat license for up to one year from the date of conviction. [2015 c 97 § 1; 2009 c 333 § 10; 2001 c 253 § 43; 1998 c 190 § 36.]

77.15.520 Commercial fishing—Unlawful gear or methods—Penalty. (1) Except for actions involving shellfish gear punishable under RCW 77.15.522, a person is guilty of commercial fishing using unlawful gear or methods if the person acts for commercial purposes and takes or fishes for any fish or shellfish using any gear or method in violation of a rule of the commission specifying, regulating, or limiting the gear or method for taking, fishing, or harvesting of such fish or shellfish.

(2) Commercial fishing using unlawful gear or methods is a gross misdemeanor. [2010 c 193 § 4; 1998 c 190 § 37.]

77.15.522 Unlawful use of shellfish gear for commercial purposes—Penalty. (1) A person is guilty of the unlawful use of shellfish gear for commercial purposes if the person:

(a) Takes, fishes for, or possesses crab, shrimp, or crawfish for commercial purposes with shellfish gear that is constructed or altered in a manner that violates any rule of the commission relating to required gear design specifications; or

(b) Is found in possession of, upon any vessel located on the waters of the state, shellfish gear that is constructed or altered in a manner that violates any rule of the commission relating to required gear design specifications, unless a person holds a valid crab pot removal permit under RCW 77.70.500 and is in the process of transporting removed crab pots as part of the Dungeness crab pot removal program.

(2) The unlawful use of shellfish gear for commercial purposes is a gross misdemeanor. [2010 c 193 § 1.]

77.15.530 Unlawful use of a nondesignated vessel—Penalty. (1) A person who holds a fishery license required by chapter 77.65 RCW, or who holds an operator's license and is designated as an alternate operator on a fishery license required by chapter 77.65 RCW, is guilty of unlawful use of a nondesignated vessel if the person takes, fishes for, or delivers from that fishery using a vessel not designated on the person's license, when vessel designation is required by chapter 77.65 RCW.

(2) Unlawful use of a nondesignated vessel is a gross misdemeanor.

(3) A nondesignated vessel may be used, subject to appropriate notification to the department and in accordance with rules established by the commission, when a designated vessel is inoperative because of accidental damage or mechanical breakdown.

(4) If the person commits the act described by subsection (1) of this section and the vessel designated on the person's fishery license was used by any person in the fishery on the same day, then the violation for using a nondesignated vessel is a class C felony. Upon conviction the department shall order revocation and suspension of all commercial fishing privileges under chapter 77.65 RCW for a period of one year. [2000 c 107 § 249; 1998 c 190 § 38.]

77.15.540 Unlawful use of a commercial fishery license—Penalty. (1) A person who holds a fishery license required by chapter 77.65 RCW, or who holds an operator's license and is designated as an alternate operator on a fishery license required by chapter 77.65 RCW, is guilty of unlawful use of a commercial fishery license if the person:

(a) Does not have the commercial fishery license or operator's license in possession during fishing or delivery; or

(b) Violates any rule of the department regarding the use, possession, display, or presentation of the person's license, decals, or vessel numbers.

(2) Unlawful use of a commercial fishery license is a misdemeanor. [2000 c 107 § 250; 1998 c 190 § 39.]

77.15.550 Violation of commercial fishing area or time—Penalty. (1) A person is guilty of violating commercial fishing area or time in the second degree if the person acts for commercial purposes and takes, fishes for, possesses, delivers, or receives fish or shellfish:

(a) At a time not authorized by statute or rule;

(b) From an area that was closed to the taking of such fish or shellfish for commercial purposes by statute or rule; or

(c) If such fish or shellfish do not conform to the special restrictions or physical descriptions established by rule of the department.

(2) A person is guilty of violating commercial fishing area or time in the first degree if the person commits the act described by subsection (1) of this section and:

(a) The person acted with knowledge that the area or time was not open to the taking or fishing of fish or shellfish for commercial purposes; and

(b) The violation involved two hundred fifty dollars or more worth of fish or shellfish.

(3)(a) Violating commercial fishing area or time in the second degree is a gross misdemeanor.

(b) Violating commercial fishing area or time in the first degree is a class C felony. [2001 c 253 § 44; 1999 c 258 § 10; 1998 c 190 § 40.]

77.15.552 Qualifying commercial fishing violations.

(1) If a person is convicted of two or more qualifying commercial fishing violations within a three-year period, the person's privileges to participate in the commercial fishery to which the violations applied may be suspended by the director for up to one year. A commercial fishery license that is suspended under this section may not be transferred after the director issues a notice of suspension, or used by an alternative operator or transferred during the period of suspension, if the person who is the subject of the suspension notice is the person who owns the commercial fishery license.

(2) For the purposes of this section only, "qualifying commercial fishing violation" means either:

(a) A conviction under RCW 77.15.500, 77.15.510, 77.15.520, 77.15.530, 77.15.550(1)(a), 77.15.570, 77.15.580, or 77.15.590;

(b) A gross misdemeanor or felony involving commercial fish harvesting, buying, or selling that is unlawful under the terms of the license, this title, or the rules issued pursuant to this title, if the quantity of unlawfully harvested, possessed, bought, or sold fish, other than shellfish, groundfish, or coastal pelagic species of baitfish totals greater than six percent, by weight, of the harvest available for inspection at the time of citation and the cumulative value of the unlawfully harvested fish is more than two hundred fifty dollars at the time of citation;

(c) A gross misdemeanor or felony involving commercial groundfish or coastal pelagic baitfish harvest, buying, or selling that is unlawful under the terms of the license, this title, or the rules issued under this title, if: (i) The quantity of unlawfully harvested, possessed, bought, or sold groundfish or coastal pelagic baitfish totals greater than ten percent, by weight, of the harvest available for inspection at the time of citation and has a cumulative value greater than five hundred dollars; or (ii) the quantity, by weight, of the unlawfully commercially harvested groundfish or coastal pelagic baitfish is ten percent greater than the landing allowances provided under rules adopted by the department for species categorized as overfished by the national marine fisheries service; or

(d) A gross misdemeanor or felony involving commercial shellfish harvesting, buying, or selling that is unlawful under the terms of the license, this title, or the rules issued pursuant to this title, if the quantity of unlawfully harvested, possessed, bought, or sold shellfish: (i) Totals greater than six percent of the harvest available for inspection at the time of citation; and (ii) totals fifty or more individual shellfish.

(3)(a) The director may refer a person convicted of one qualifying commercial fishing violation to the license suspension review committee if the director feels that the qualifying commercial fishing violation was of a severe enough magnitude to justify suspension of the individual's license renewal privileges.

(b) The director may refer any person convicted of one egregious shellfish violation to the license suspension review committee.

(c) For the purposes of this section only, "egregious shellfish violation" means a gross misdemeanor or felony involving commercial shellfish harvesting, buying, or selling that is unlawful under the terms of the license, this title, or the rules issued pursuant to this title, if the quantity of unlawfully harvested, possessed, bought, or sold shellfish: (i) Totals more than twenty percent of the harvest available for inspection at the time of citation; (ii) totals five hundred or more individual shellfish; and (iii) is valued at two thousand five hundred dollars or more.

(4) A person who has a commercial fishing license suspended or revoked under this section may file an appeal with the license suspension review committee pursuant to RCW 77.15.554. An appeal must be filed within thirty-one days of notice of license suspension or revocation. If an appeal is filed, the suspension or revocation issued by the department does not take effect until after the license suspension review committee has delivered an opinion. If no appeal is filed within thirty-one days of notice of license suspension or revocation, the right to an appeal is considered waived. All suspensions ordered under this section take effect either thirty-one days following the conviction for the second qualifying commercial fishing violation, or upon a decision pursuant to RCW 77.15.554, whichever is later.

(5) A fishing privilege suspended under this section is in addition to the statutory penalties assigned to the underlying crime.

(6) For the purposes of this section only, the burden is on the state to show the dollar amount or the percent of a harvest that is comprised of unlawfully harvested, bought, or sold individual fish or shellfish. [2003 c 386 § 3.]

Findings—Intent—2003 c 386: See note following RCW 77.15.700.

77.15.554 License suspension review committee. (1) The license suspension review committee is created. The license suspension review committee may only hear appeals from commercial fishers who have had a license revoked or suspended pursuant to RCW 77.15.552.

(2)(a) The license suspension review committee is composed of five voting members and up to four alternates.

(b) Two of the members must be appointed by the director and may be department employees.

(c) Three members, and up to four alternates, must be peer-group members, who are individuals owning a commercial fishing license issued by the department. If a peer-group member appears before the license suspension review committee because of a qualifying commercial fishing violation, the member must recuse himself or herself from the proceedings relating to that violation. No two voting peer-group members may reside in the same county. All peer-group members must be appointed by the commission, who may accept recommendations from professional organizations that represent commercial fishing interests or from the legislative authority of any Washington county.

(d) All license suspension review committee members serve a two-year renewable term.

(e) The commission may develop minimum member standards for service on the license suspension review committee, and standards for terminating a member before the expiration of his or her term.

(3) The license suspension review committee must convene and deliver an opinion on a license renewal suspension within three months of appeal or of referral from the department. The director shall consider the committee's opinion and make a decision and may issue, not issue, or modify the license suspension.

(4) The license suspension review committee shall collect the information and hear the testimony that it feels necessary to deliver an opinion on the proper length, if any, of a suspension of a commercial license. The opinion may be based on extenuating circumstances presented by the individual convicted of the qualifying commercial fishing violation or considerations of the type and magnitude of violations that have been committed by the individual. The maximum length of any suspension may not exceed one year.

(5) All opinions of the license suspension review committee must be by a majority vote of all voting members. Alternate committee members may only vote when one of the voting members is unavailable, has been recused, or has decided not to vote on the case before the committee. Non-voting alternates may be present and may participate at all license suspension review committee meetings.

(6) Members of the license suspension review committee serve as volunteers, and are not eligible for compensation other than travel expenses pursuant to RCW 43.03.050 and 43.03.060.

(7) Staff of the license suspension review committee must be provided by the department. [2003 c 386 § 4.]

Findings—Intent—2003 c 386: See note following RCW 77.15.700.

77.15.565 Wholesale fish buyer a limited fish seller—Accounting of commercial harvest—Penalties. Since violation of the rules of the department relating to the accounting of the commercial harvest of fish and shellfish results in damage to the resources of the state, liability for damage to fish and shellfish resources is imposed on a wholesale fish buyer or a limited fish seller for violation of a provision in chapters 77.65 and 77.70 RCW or a rule of the department related to the accounting of the commercial harvest of fish and shellfish and shall be for the actual damages or for damages imposed as follows:

(1) For violation of rules requiring the timely presentation to the department of documents relating to the accounting of commercial harvest, fifty dollars for each of the first fifteen documents in a series and ten dollars for each subsequent document in the same series. If documents relating to the accounting of commercial harvest of fish and shellfish are lost or destroyed and the wholesale fish buyer or limited fish seller notifies the department in writing within seven days of the loss or destruction, the director shall waive the requirement for timely presentation of the documents.

(2) For violation of rules requiring accurate and legible information relating to species, value, harvest area, or amount of harvest, twenty-five dollars for each of the first five violations of this subsection per calendar year, and fifty dollars for each violation after the first five violations.

(3) For violations of rules requiring certain signatures, fifty dollars for each of the first two violations and one hundred dollars for each subsequent violation. For the purposes of this subsection, each signature is a separate requirement.

(4) For other violations of rules relating to the accounting of the commercial harvest, fifty dollars for each separate violation. [2017 3rd sp.s. c 8 § 11; 2002 c 301 § 6; 2000 c 107 § 12; 1996 c 267 § 14; 1985 c 248 § 5. Formerly RCW 75.10.150.]

Finding—Intent—Effective date—2017 3rd sp.s. c 8: See notes following RCW 77.08.010.

Finding—Effective date—2002 c 301: See notes following RCW 77.65.510.

Intent—Effective date—1996 c 267: See notes following RCW 77.12.177.

Wholesale fish buyers and limited fish sellers—Documentation of commercial harvest: RCW 77.65.310.

77.15.568 Secondary commercial fish receiver's failure to account for commercial harvest—Penalty. (1) A person is guilty of a secondary commercial fish receiver's failure to account for commercial harvest if:

(a) The person sells fish or shellfish at retail, stores, holds, or processes fish or shellfish in exchange for valuable consideration, or brokers or ships fish or shellfish in exchange for valuable consideration;

(b)(i) The fish or shellfish were required to be entered on a Washington fish-receiving ticket or a Washington aquatic farm production annual report; or

(ii) The fish or shellfish are classified as fish or shellfish by the department; and

(c) The person fails to maintain records of each receipt of fish or shellfish, as required under subsections (3) through (5) of this section, at:

(i) The location where the fish or shellfish are being sold or at the location where the fish or shellfish are being stored or held; or

(ii) The principal place of business of the shipper or broker if the fish or shellfish are not in possession.

(2) Wholesale fish buyers, limited fish sellers, and registered aquatic farmers are not required to comply with this section for fish or shellfish documented on fish tickets or aquatic farm production reports.

(3) Records of the receipt of fish or shellfish required to be kept under this section must be in the English language and be maintained for three years from the date fish or shellfish are received, shipped, or brokered.

(4) Records maintained by persons that retail or broker fish or shellfish, or that store, hold, or ship fish or shellfish for others must include the following:

(a) The name, address, and phone number of the person from whom the fish or shellfish were purchased or received;

(b) The date of purchase or receipt;

(c) The state or country of origin if received from interstate or foreign commerce; and

(d) The amount and species of fish or shellfish purchased or received.

(5) A secondary commercial fish receiver's failure to account for commercial harvest is a misdemeanor. [2017 c 89 § 1; 2016 sp.s. c 21 § 1; 2009 c 333 § 19; 2007 c 337 § 4; 2003 c 336 § 1.]

Intent—Finding—2007 c 337: See note following RCW 77.12.071.

77.15.570 Participation of non-Indians in Indian fishery forbidden—Exceptions, definitions, penalty. (1)

(2021 Ed.)

Except as provided in subsection (3) of this section, it is unlawful for a person who is not a treaty Indian fisher to participate in the taking of fish or shellfish in a treaty Indian fishery, or to be on board a vessel, or associated equipment, operating in a treaty Indian fishery. A violation of this subsection is a gross misdemeanor.

(2) A person who violates subsection (1) of this section with the intent of acting for commercial purposes, including any sale of catch, control of catch, profit from catch, or payment for fishing assistance, is guilty of a class C felony. Upon conviction, the department shall order revocation of any license and a one-year suspension of all commercial fishing privileges requiring a license under chapter 77.65 or 77.70 RCW.

(3)(a) The spouse, forebears, siblings, children, and grandchildren of a treaty Indian fisher may assist the fisher in exercising treaty Indian fishing rights when the treaty Indian fisher is present at the fishing site.

(b) Other treaty Indian fishers with off-reservation treaty fishing rights in the same usual and accustomed places, whether or not the fishers are members of the same tribe or another treaty tribe, may assist a treaty Indian fisher in exercising treaty Indian fishing rights when the treaty Indian fisher is present at the fishing site.

(c) Biologists approved by the department may be on board a vessel operating in a treaty Indian fishery.

(4) For the purposes of this section:

(a) "Treaty Indian fisher" means a person who may exercise treaty Indian fishing rights as determined under *United States v. Washington*, 384 F. Supp. 312 (W.D. Wash. 1974), or *Sohappy v. Smith*, 302 F. Supp. 899 (D. Oregon 1969), and post-trial orders of those courts;

(b) "Treaty Indian fishery" means a fishery open to only treaty Indian fishers by tribal or federal regulation;

(c) "To participate" and its derivatives mean an effort to operate a vessel or fishing equipment, provide immediate supervision in the operation of a vessel or fishing equipment, or otherwise assist in the fishing operation, to claim possession of a share of the catch, or to represent that the catch was lawfully taken in an Indian fishery.

(5) A violation of this section constitutes illegal fishing and is subject to the suspensions provided for commercial fishing violations. [2013 c 23 § 242; 2000 c 107 § 251; 1998 c 190 § 49; 1983 1st ex.s. c 46 § 63; 1982 c 197 § 1. Formerly RCW 75.12.320.]

77.15.580 Unlawful use of net to take fish—Penalty.

(1) A person is guilty of unlawful use of a net to take fish in the second degree if the person:

(a) Lays, sets, uses, or controls a net or other device or equipment capable of taking fish from the waters of this state, except if the person has a valid license for such fishing gear from the director under this title and is acting in accordance with all rules of the commission and director; or

(b) Fails to return unauthorized fish to the water immediately while otherwise lawfully operating a net under a valid license.

(2) A person is guilty of unlawful use of a net to take fish in the first degree if the person:

(a) Commits the act described by subsection (1) of this section; and

(b) The violation occurs within five years of entry of a prior conviction for a gross misdemeanor or felony under this title involving fish, other than a recreational fishing violation, or involving unlawful use of nets.

(3)(a) Unlawful use of a net to take fish in the second degree is a gross misdemeanor. Upon conviction, the department shall revoke any license held under this title allowing commercial net fishing used in connection with the crime.

(b) Unlawful use of a net to take fish in the first degree is a class C felony. Upon conviction, the department shall order a one-year suspension of all commercial fishing privileges requiring a license under this title.

(4) Notwithstanding subsections (1) and (2) of this section, it is lawful to use a landing net to land fish otherwise legally hooked. [2000 c 107 § 252; 1998 c 190 § 50.]

77.15.590 Commercial fishing vessel—Unlawful use for recreational or charter fishing—Penalty. (1) A person is guilty of unlawful use of a commercial fishing vessel, except as may be authorized by rule of the commission, for recreational or charter fishing if the person uses, operates, or controls a vessel on the same day for both:

- (a) Charter or recreational fishing; and
- (b) Commercial fishing or shellfish harvesting.

(2) Unlawful use of a commercial fishing vessel for recreational or charter fishing is a gross misdemeanor. [1998 c 190 § 51.]

77.15.600 Engaging in commercial wildlife activity without a license—Penalty. (1) A person is guilty of engaging in commercial wildlife activity without a license if the person:

(a) Deals in raw furs for commercial purposes and does not hold a fur dealer license required by chapter 77.65 RCW; or

(b) Practices taxidermy for commercial purposes and does not hold a taxidermy license required by chapter 77.65 RCW.

(2) Engaging in commercial wildlife activities without a license is a gross misdemeanor. [2001 c 253 § 45; 1999 c 258 § 8; 1998 c 190 § 32.]

77.15.610 Unlawful use of a commercial wildlife license—Penalty. (1) A person who holds a fur dealer's license or taxidermy license is guilty of unlawful use of a commercial wildlife license if the person fails to purchase and have in the person's possession the required license while engaged in fur buying or practicing taxidermy for commercial purposes.

(2) Unlawful use of a commercial wildlife license is a misdemeanor. [2012 c 176 § 29; 2009 c 333 § 5; 1998 c 190 § 33.]

77.15.620 Engaging in fish dealing activity without a license—Penalty. (1) A person is guilty of engaging in fish dealing activity without a license in the second degree if the activity involves fish or shellfish worth less than two hundred fifty dollars and the person:

(a) Engages in any fish dealing activity requiring a fish dealer license under RCW 77.65.280 without first obtaining the license;

(b) Engages in any fish buying or selling activity requiring a wholesale fish buyer endorsement under RCW 77.65.340 without first obtaining the endorsement; or

(c) Engages in any fish selling activity as a fisher that requires a limited fish seller endorsement under RCW 77.65.510 without first obtaining the endorsement.

(2) A person is guilty of engaging in fish dealing activity without a license in the first degree if the person commits the act described by subsection (1) of this section and the violation involves fish or shellfish worth two hundred fifty dollars or more.

(3)(a) Engaging in fish dealing activity without a license in the second degree is a gross misdemeanor.

(b) Engaging in fish dealing activity without a license in the first degree is a class C felony. [2017 3rd sp.s. c 8 § 12; 2012 c 176 § 30; 2009 c 333 § 20; 2002 c 301 § 7; 2000 c 107 § 253; 1998 c 190 § 43.]

Finding—Intent—Effective date—2017 3rd sp.s. c 8: See notes following RCW 77.08.010.

Finding—Effective date—2002 c 301: See notes following RCW 77.65.510.

77.15.630 Unlawful fish and shellfish catch accounting—Penalty. (1) A person licensed as a commercial fisher, wholesale fish buyer, or limited fish seller, or a person not so licensed but acting in such a capacity, is guilty of unlawful fish and shellfish catch accounting in the second degree if he or she receives or delivers for commercial purposes fish or shellfish worth less than two hundred fifty dollars; and

(a) Fails to document such fish or shellfish with a fish-receiving ticket or other documentation required by statute or department rule;

(b) Fails to sign the fish-receiving ticket or other required documentation, fails to provide all of the information required by statute or department rule on the fish-receiving ticket or other documentation, or both; or

(c) Fails to submit the fish-receiving ticket to the department as required by statute or department rule.

(2) A person is guilty of unlawful fish and shellfish catch accounting in the first degree if the person commits an act described by subsection (1) of this section and:

(a) The violation involves fish or shellfish worth two hundred fifty dollars or more;

(b) The person acted with knowledge that the fish or shellfish were taken from a closed area, at a closed time, or by a person not licensed to take such fish or shellfish for commercial purposes; or

(c) The person acted with knowledge that the fish or shellfish were taken in violation of any tribal law.

(3)(a) Unlawful fish and shellfish catch accounting in the second degree is a gross misdemeanor.

(b) Unlawful fish and shellfish catch accounting in the first degree is a class C felony. Upon conviction, the department shall suspend all privileges to engage in wholesale fish buying or dealing for two years.

(4) For the purposes of this section:

(a) A person "receives" fish or shellfish when title or control of the fish or shellfish is transferred or conveyed to the person.

(b) A person "delivers" fish or shellfish when title or control of the fish or shellfish is transferred or conveyed from

the person. [2017 3rd sp.s. c 8 § 13; 2014 c 48 § 21; 2012 c 176 § 31; 2000 c 107 § 254; 1998 c 190 § 44.]

Finding—Intent—Effective date—2017 3rd sp.s. c 8: See notes following RCW 77.08.010.

77.15.640 Unlawful wholesale fish buying and dealing—Penalty. (1) A person who holds a fish dealer license required by RCW 77.65.280, a wholesale fish buyer endorsement required by RCW 77.65.340, or a limited fish seller endorsement under RCW 77.65.510 is guilty of unlawful wholesale fish buying and dealing if the person:

(a) Fails to possess or display his or her license when engaged in any act requiring the license; or

(b) Fails to display or uses the license in violation of any department rule.

(2) Unlawful wholesale fish buying and dealing is a gross misdemeanor. [2017 3rd sp.s. c 8 § 14; 2012 c 176 § 32; 2002 c 301 § 8; 2000 c 107 § 255; 1998 c 190 § 45.]

Finding—Intent—Effective date—2017 3rd sp.s. c 8: See notes following RCW 77.08.010.

Finding—Effective date—2002 c 301: See notes following RCW 77.65.510.

77.15.650 Unlawful purchase or use of a license—Penalty. (1) A person is guilty of unlawful purchase or use of a license in the second degree if the person buys, holds, uses, displays, transfers, or obtains any license, tag, permit, or approval required by this title and the person:

(a) Uses false information to buy, hold, use, display, or obtain a license, permit, tag, or approval;

(b) Acquires, holds, or buys in excess of one license, permit, or tag for a license year if only one license, permit, or tag is allowed per license year;

(c) Except as authorized under RCW 77.32.565, uses or displays a license, permit, tag, or approval that was issued to another person;

(d) Except as authorized under RCW 77.32.565, permits or allows a license, permit, tag, or approval to be used or displayed by another person not named on the license, permit, tag, or approval;

(e) Acquires or holds a license while privileges for the license are revoked or suspended;

(f) Holds a resident license from another state or country. This subsection (1)(f) only applies if the Washington license, tag, permit, or approval that the person buys, holds, uses, displays, transfers, or obtains is a resident license. It is prima facie evidence of a violation of this section if any person who has a resident license from another state or country purchases a resident license, tag, permit, or approval in Washington. This subsection does not apply to individuals who meet the definition of "resident" in RCW 77.08.075 (2), (3), and (4).

(2) A person is guilty of unlawful purchase or use of a license in the first degree if the person commits the act described by subsection (1) of this section and the person was acting with intent that the license, permit, tag, or approval be used for any commercial purpose. A person is presumed to be acting with such intent if the violation involved obtaining, holding, displaying, or using a license or permit for participation in any commercial fishery issued under this title or a license authorizing fish or wildlife buying, trafficking, or wholesaling.

(2021 Ed.)

(3)(a) Unlawful purchase or use of a license in the second degree is a gross misdemeanor. Upon conviction, the department shall revoke any unlawfully used or held licenses and order a two-year suspension of participation in the activities for which the person unlawfully obtained, held, or used a license, permit, tag, or approval.

(b) Unlawful purchase or use of a license in the first degree is a class C felony. Upon conviction, the department shall revoke any unlawfully used or held licenses and order a five-year suspension of participation in any activities for which the person unlawfully obtained, held, or used a license, permit, tag, or approval.

(4) For purposes of this section, a person "uses" a license, permit, tag, or approval if the person engages in any activity authorized by the license, permit, tag, or approval held or possessed by the person. Such uses include but are not limited to fishing, hunting, taking, trapping, delivery or landing fish or wildlife, and selling, buying, or wholesaling of fish or wildlife.

(5) Any license obtained in violation of this section is void upon issuance and is of no legal effect. [2012 c 176 § 33; 2008 c 10 § 2; 2000 c 107 § 256; 1998 c 190 § 59.]

Additional notes found at www.leg.wa.gov

77.15.660 Unlawful use of scientific permit—Penalty.

(1) A person is guilty of unlawful use of a scientific permit if the permit issued by the director is for big game or big game parts, and the person:

(a) Violates any terms or conditions of the scientific permit;

(b) Buys or sells big game or big game parts that were taken or acquired with a scientific permit; or

(c) Violates any department rule applicable to the issuance or use of scientific permits.

(2) Unlawful use of a scientific permit is a gross misdemeanor. [2012 c 176 § 34; 1998 c 190 § 55.]

77.15.670 Suspension of department privileges—Violation—Penalty—Violations of child support-based suspensions. (1) A person is guilty of violating a suspension of department privileges in the second degree if the person engages in any activity that is licensed by the department and the person's privileges to engage in that activity were revoked or suspended by any court or the department.

(2) A person is guilty of violating a suspension of department privileges in the first degree if the person commits the act described by subsection (1) of this section and:

(a) The suspension of privileges that was violated was a permanent suspension;

(b) The person takes or possesses more than two hundred fifty dollars' worth of unlawfully taken food fish, wildlife, game fish, seaweed, or shellfish; or

(c) The violation involves the hunting, taking, or possession of fish or wildlife classified as endangered or threatened or big game.

(3)(a) Violating a suspension of department privileges in the second degree is a gross misdemeanor. Except for violations of child support-based suspensions, which are covered in (c) of this subsection, a conviction under this subsection requires the department to order a permanent suspension of the person's privileges to engage in the hunting or fishing

activities that he or she was engaged in when he or she violated a suspension of department privileges in the second degree.

(b) Violating a suspension of department privileges in the first degree is a class C felony. Except for violations of child support-based suspensions, which are covered in (c) of this subsection, a conviction under this subsection requires the department to order a permanent suspension of all of the person's privileges to hunt, fish, trap, or take wildlife, food fish, game fish, or shellfish.

(c) Suspension periods for violations of child support-based suspensions are as follows:

(i) If the suspension that the person violated in the second degree was based on noncompliance with child support and was ordered under RCW 74.20A.322 or 77.32.014, then the department must order a suspension of all of the person's privileges to hunt, fish, trap, or take wildlife, food fish, game fish, or shellfish for a period of two years. This suspension is in addition to any suspension required by the statute for the underlying fish or wildlife violation.

(ii) If the suspension that the person violated in the first degree was based on noncompliance with child support and was ordered under RCW 74.20A.322 or 77.32.014, then the department must order a suspension of all of the person's privileges to hunt, fish, trap, or take wildlife, food fish, game fish, or shellfish for a period of four years. This suspension is in addition to any suspension required by the statute for the underlying fish or wildlife violation.

(iii) Suspensions pursuant to (c)(i) and (ii) of this subsection do not affect any underlying hunting and fishing privilege suspensions based on noncompliance with child support and ordered under RCW 74.20A.322 or 77.32.014. If a person who is suspended pursuant to (c)(i) and (ii) of this subsection completes the period of suspension ordered under this section but is still suspended for child support noncompliance, the person is prohibited from hunting, fishing, or engaging in any activity regulated by the department until he or she obtains a release from the department of social and health services and provides a copy of the release to the department.

(4) As used in this section, hunting includes trapping with a trapping license. [2013 c 102 § 1; 1999 c 258 § 11; 1998 c 190 § 60.]

77.15.675 Hunting while intoxicated—Penalty. (1) A person is guilty of hunting while under the influence of intoxicating liquor or drugs if the person hunts wild animals or wild birds while under the influence of intoxicating liquor or drugs.

(2) Hunting while under the influence of intoxicating liquor or drugs is a gross misdemeanor. [1999 c 258 § 12; 1980 c 78 § 75; 1955 c 36 § 77.16.070. Prior: 1947 c 275 § 45a; Rem. Supp. 1947 § 5992-55. Formerly RCW 77.16.070.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.15.680 Department authority to suspend privileges—Form and procedure. (1) If any crime in this chapter is punishable by a suspension of privileges, then the department shall issue an order that specifies the privileges

suspended and period when such suspension shall begin and end. The department has no authority to issue licenses, permits, tags, or stamps for the suspended activity until the suspension ends and any license, tag, stamp, or other permission obtained in violation of an order of suspension is void and ineffective.

(2) A court sentence may include a suspension of privileges only if grounds are provided by statute. There is no right to seek reinstatement of privileges from the department during a period of court-ordered suspension.

(3) If this chapter makes revocation or suspension of privileges mandatory, then the department shall impose the punishment in addition to any other punishments authorized by law. [1998 c 190 § 65.]

77.15.690 Department authority to revoke licenses.

(1) Upon any conviction of any violation of this chapter, the department may revoke any license, tag, or stamp, or other permit involved in the violation or held by the person convicted, in addition to other penalties provided by law.

(2) If the department orders that a license, tag, stamp, or other permit be revoked, that order is effective upon entry of the order and any such revoked license, tag, stamp, or other permit is void as a result of such order of revocation. The department shall order such license, tag, stamp, or other permit turned over to the department, and shall order the person not to acquire a replacement or duplicate for the remainder of the period for which the revoked license, tag, stamp, or other permit would have been valid. During this period when a license is revoked, the person is subject to punishment under this chapter. If the person appeals the sentence by the court, the revocation shall be effective during the appeal.

(3) If an existing license, tag, stamp, or other permit is voided and revoked under this chapter, the department and its agents shall not be required to refund or restore any fees, costs, or money paid for the license, nor shall any person have any right to bring a collateral appeal under chapter 34.05 RCW to attack the department order. [1998 c 190 § 64.]

77.15.700 Grounds for department revocation and suspension of recreational license—Appeal. (1) The department shall revoke a person's recreational license or licenses and suspend a person's recreational license privileges in the following circumstances:

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

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

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

(d) If a person violates, three times or more in a ten-year period, recreational hunting or fishing laws or rules for which the person: (i) Is convicted of an offense; (ii) has an unvacated payment of a fine or a finding of committed as a final disposition for any infraction; or (iii) fails to appear at a hearing to contest an infraction or a criminal citation. Revocation and suspension under this subsection must be ordered of all recreational hunting and fishing privileges for at least two years and up to ten years.

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

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

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

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

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

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

(5) A recreational license revoked and privilege suspended under this section is in addition to the statutory penalties assigned to the underlying violation. [2020 c 38 § 4; 2012 c 176 § 35; 2009 c 333 § 2; 2007 c 163 § 2; 2005 c 321 § 1; 2003 c 386 § 2; 2001 c 253 § 46; 1998 c 190 § 66.]

Findings—Intent—2003 c 386: "(1)(a) The legislature finds that existing law as it relates to the suspension of commercial fishing licenses does not take into account the real-life circumstances faced by the state's commercial fishing fleets. The nature of the commercial fishing industry, together with the complexity of fisheries regulations, is such that honest mistakes can be made by well-meaning and otherwise law-abiding fishers. Commercial fishing violations that occur within an acceptable margin of error should not result in the suspension of fishing privileges. Likewise, fishers facing the possibility of license suspension or revocation deserve the opportunity to explain any extenuating circumstances prior to having his or her professional privileges suspended.

(b) The legislature intends, by creating the license suspension review committee, to provide a fisher with the opportunity to explain any extenuat-

ing circumstances that led to a commercial fishing violation. The legislature intends for the license suspension review committee to give serious considerations to the case-specific facts and scenarios leading up to a violation, and for license suspensions to issue only when the facts indicate a willful act that undermines the conservation of fish stocks. Frivolous violations should not result in the suspension of privileges, and should be punished only by the criminal sanctions attached to the underlying crime.

(2)(a) The legislature further finds that gross abuses of fish stocks should not be tolerated. Individuals convicted of even one violation that is egregious in nature, causing serious detriment to a fishery or the competitive disposition of other fishers, should have his or her license suspended and revoked.

(b) The legislature intends for the license suspension review committee to take egregious fisheries' violations seriously. When dealing with individuals convicted of only one violation, the license suspension review committee should only consider suspension for individuals that are convicted of violations that are of a severe magnitude and show a wanton disregard for the public's resource." [2003 c 386 § 1.]

77.15.710 Conviction for assault—Revocation of licenses and suspension of privileges.

(1) The commission shall revoke all hunting, fishing, or other licenses issued under this title and order a ten-year suspension of all privileges extended under the authority of the department of a person convicted of assault on a fish and wildlife officer, ex officio officer, employee, agent, or personnel acting for the department, if the employee assaulted was on duty at the time of the assault and carrying out the provisions of this title. The suspension shall be continued beyond this period if any damages to the victim have not been paid by the suspended person.

(2) For the purposes of this section, the definition of assault includes:

(a) RCW 9A.32.030; murder in the first degree;

(b) RCW 9A.32.050; murder in the second degree;

(c) RCW 9A.32.060; manslaughter in the first degree;

(d) RCW 9A.32.070; manslaughter in the second degree;

(e) RCW 9A.36.011; assault in the first degree;

(f) RCW 9A.36.021; assault in the second degree; and

(g) RCW 9A.36.031; assault in the third degree. [2000 c 107 § 257; 1998 c 190 § 67; 1995 1st sp.s. c 2 § 43 (Referendum Bill No. 45, approved November 7, 1995); 1993 sp.s. c 2 § 74; 1991 c 211 § 1. Formerly RCW 77.16.135.]

Additional notes found at www.leg.wa.gov

77.15.720 Discharge of firearm, bow, or crossbow while hunting—In a manner that injures a person or that kills or causes substantial bodily harm to livestock—Suspension of hunting privileges—Appeal.

(1)(a) If a person discharges a firearm, bow, or crossbow while hunting and in a manner that injures, or that a reasonable person would believe is likely to injure, another person, the director shall revoke all of the shooter's hunting licenses and suspend all hunting privileges for three years. If the shooting kills or results in the death of another person, then the director shall revoke all of the shooter's hunting licenses and suspend all of the person's hunting privileges for ten years.

(b) If a person, with malice, discharges a firearm, bow, or crossbow while hunting and in a manner that kills or causes substantial bodily harm to livestock belonging to another person, the director shall revoke all of the shooter's hunting licenses and suspend all hunting privileges for three years. For the purposes of this subsection (1)(b), "malice" has

the same meaning as provided in RCW 9A.04.110 but applies to acts against livestock.

(2) A suspension under subsection (1) of this section shall be continued beyond the applicable periods if damages owed to the victim or livestock owner have not been paid by the suspended person. In such a case, no hunting license shall be reissued to the suspended person unless authorized by the director.

(3) A person who is notified of a license revocation under this section may request an appeal hearing under chapter 34.05 RCW.

(4) The commission may by rule authorize petitions for reinstatement of administrative suspensions and define circumstances under which such a reinstatement will be allowed. [2012 c 176 § 36; 2000 c 107 § 258; 1998 c 190 § 68.]

77.15.730 Wildlife violator compact citations and convictions. (1) Upon receipt of a report of failure to comply with the terms of a citation issued for a recreational violation from the licensing authority of a state that is a party to the wildlife violator compact under RCW 77.75.070, the department shall suspend the violator's recreational license privileges under this title until there is satisfactory evidence of compliance with the terms of the wildlife citation. The department shall adopt by rule procedures for the timely notification and administrative review of such suspension of recreational licensing privileges.

(2) Upon receipt of a report of a conviction for a recreational offense from the licensing authority of a state that is a party to the wildlife violator compact under RCW 77.75.070, the department shall enter such conviction in its records and shall treat such conviction as if it occurred in the state of Washington for the purposes of suspension, revocation, or forfeiture of recreational license privileges. [2001 c 253 § 47; 1994 c 264 § 45; 1993 c 82 § 6. Formerly RCW 75.10.220.]

Additional notes found at www.leg.wa.gov

77.15.732 Citations from wildlife violator compact party state—Failure to comply. (1) Upon receipt of a report of failure to comply with the terms of a citation from the licensing authority of a state that is a party to the wildlife violator compact under RCW 77.75.070, the department shall suspend the violator's license privileges under this title until satisfactory evidence of compliance with the terms of the wildlife citation has been furnished by the issuing state to the department. The department shall adopt by rule procedures for the timely notification and administrative review of such suspension of licensing privileges.

(2) Upon receipt of a report of a conviction from the licensing authority of a state that is a party to the wildlife violator compact under RCW 77.75.070, the department shall enter such conviction in its records and shall treat such conviction as if it occurred in the state of Washington for the purposes of suspension, revocation, or forfeiture of license privileges. [2000 c 107 § 263; 1993 c 82 § 5. Formerly RCW 77.21.090.]

Additional notes found at www.leg.wa.gov

77.15.740 Protection of southern resident orca whales—Unlawful activities—Penalty. (1) Except as provided in subsection (2) of this section, it is unlawful for a person to:

(a) Cause a vessel or other object to approach, in any manner, within three hundred yards of a southern resident orca whale;

(b) Position a vessel to be in the path of a southern resident orca whale at any point located within four hundred yards of the whale. This includes intercepting a southern resident orca whale by positioning a vessel so that the prevailing wind or water current carries the vessel into the path of the whale at any point located within four hundred yards of the whale;

(c) Position a vessel behind a southern resident orca whale at any point located within four hundred yards;

(d) Fail to disengage the transmission of a vessel that is within three hundred yards of a southern resident orca whale;

(e) Cause a vessel or other object to exceed a speed greater than seven knots over ground at any point located within one-half nautical mile (one thousand thirteen yards) of a southern resident orca whale; or

(f) Feed a southern resident orca whale.

(2) A person is exempt from subsection (1) of this section if that person is:

(a) Operating a federal government vessel in the course of official duties, or operating a state, tribal, or local government vessel when engaged in official duties involving law enforcement, search and rescue, or public safety;

(b) Operating a vessel in conjunction with a vessel traffic service established under 33 C.F.R. and following a traffic separation scheme, or complying with a vessel traffic service measure of direction. This also includes support vessels escorting ships in the traffic lanes, such as tug boats;

(c) Engaging in an activity, including scientific research, pursuant to a permit or other authorization from the national marine fisheries service and the department;

(d) Lawfully engaging in a treaty Indian or commercial fishery that is actively setting, retrieving, or closely tending fishing gear. Commercial fishing vessels in transit are not exempt from subsection (1) of this section;

(e) Conducting vessel operations necessary to avoid an imminent and serious threat to a person, vessel, or the environment, including when necessary for overall safety of navigation and to comply with state and federal navigation requirements; or

(f) Engaging in rescue or clean-up efforts of a beached southern resident orca whale overseen, coordinated, or authorized by a volunteer stranding network.

(3) For the purpose of this section, "vessel" includes aircraft while on the surface of the water, and every description of watercraft on the water that is used or capable of being used as a means of transportation on the water. However, "vessel" does not include inner tubes, air mattresses, sailboards, and small rafts, or flotation devices or toys customarily used by swimmers.

(4)(a) A violation of this section is a natural resource infraction punishable under chapter 7.84 RCW and carries a fine of five hundred dollars, not including statutory assessments added pursuant to RCW 3.62.090.

(b) A person who qualifies for an exemption under subsection (2) of this section may offer that exemption as an affirmative defense, which that person must prove by a preponderance of the evidence.

(5) The enforcement actions required of the department from this section are subject to the availability of amounts appropriated for this specific purpose. [2019 c 291 § 1; 2014 c 48 § 22; 2012 c 176 § 37; 2008 c 225 § 2.]

Effective date—2019 c 291 § 1: "Section 1 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 8, 2019]." [2019 c 291 § 6.]

Findings—Intent—2008 c 225: "The legislature finds that the resident population of orca whales in Washington waters (*Orcinus orca*), commonly referred to as the southern residents, are enormously significant to the state. These highly social, intelligent, and playful marine mammals, which the legislature designated as the official marine mammal of the state of Washington, serve as a symbol of the Pacific Northwest and illustrate the biological diversity and rich natural heritage that all Washington citizens and its visitors enjoy.

However, the legislature also finds that the southern resident orcas are currently in a serious decline. Southern residents experienced an almost twenty percent decline between 1996 and 2001. The federal government listed this orca population as depleted in 2003, and as an endangered species in 2005. The federal government has identified impacts from vessels as a significant threat to these marine mammals.

In 2006, after listing the southern resident orcas as endangered, the federal government designated critical orca habitat and released a proposed recovery plan for the southern resident orcas. The federal government has initiated the process to adopt orca conservation rules, but this process may be lengthy. Additionally, although existing whale and wildlife viewing guidelines are an excellent educational resource, these guidelines are voluntary measures that cannot be enforced.

Therefore, the legislature intends to protect southern resident orca whales from impacts from vessels, and to educate the public on how to reduce the risk of disturbing these important marine mammals." [2008 c 225 § 1.]

Intent—2008 c 225: "The legislature encourages the state's law enforcement agencies to utilize existing statutes and regulations to protect southern resident orca whales from impacts from vessels, including the vessel operation and enforcement standards contained in chapter 79A.60 RCW." [2008 c 225 § 3.]

77.15.750 Unlawful use of a department permit—Penalty. (1) A person is guilty of unlawful use of a department permit if the person:

(a) Violates any terms or conditions of the permit issued by the department or the director; or

(b) Violates any rule of the commission or the director applicable to the requirement for, issuance of, or use of the permit.

(2)(a) Permits covered under subsection (1) of this section include, but are not limited to, master hunter permits, crab pot removal permits and shellfish pot removal permits under RCW 77.70.500, depredation permits, landowner hunting permits, commercial carp license permits, permits to possess or dispense beer or malt liquor pursuant to RCW 66.28.210, and permits to hold, sponsor, or attend an event requiring a banquet permit from the *liquor control board.

(b) Permits excluded from subsection (1) of this section include the discover pass created in RCW 79A.80.020, the vehicle access pass created in RCW 79A.80.040, the day-use permit created in RCW 79A.80.030, commercial use or activity permits, noncommercial use or activity permits, parking permits, experimental fishery permits, trial commercial fishery permits, and scientific collection permits.

(2021 Ed.)

(3) Unlawful use of a department permit is a misdemeanor.

(4) A person is guilty of unlawful use of an experimental fishery permit or a trial commercial fishery permit if the person:

(a) Violates any terms or conditions of the permit issued by the department or the director; or

(b) Violates any rule of the commission or the director applicable to the issuance or use of the permit.

(5) Unlawful use of an experimental fishery permit or a trial commercial fishery permit is a gross misdemeanor.

(6) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Experimental fishery permit" means a permit issued by the director for either:

(i) An "emerging commercial fishery," defined as a fishery for a newly classified species for which the department has determined that there is a need to limit participation; or

(ii) An "expanding commercial fishery," defined as a fishery for a previously classified species in a new area, by a new method, or at a new effort level, for which the department has determined that there is a need to limit participation.

(b) "Trial commercial fishery permit" means a permit issued by the department for trial harvest of a newly classified species or harvest of a previously classified species in a new area or by a new means. [2011 c 320 § 20; 2010 c 193 § 9; 2009 c 333 § 14.]

***Reviser's note:** The "state liquor control board" was renamed the "state liquor and cannabis board" by 2015 c 70 § 3.

Effective date—2011 c 320: See note following RCW 79A.80.005.

Findings—Intent—2011 c 320: See RCW 79A.80.005.

77.15.760 Suspension of a master hunter permit—Appeal hearing. (1) The department may suspend a person's master hunter permit for the following reasons and corresponding lengths of time:

(a) If the person pays the required fine or is found to have committed an infraction under this chapter or the department's rules, the department shall suspend the person's master hunter permit for two years;

(b) If the person pays the required fine or is convicted of a misdemeanor, gross misdemeanor, or felony under this chapter, the department shall suspend the person's master hunter permit for life;

(c) If the person pays the required fine or is convicted of trespass, reckless endangerment, criminal conspiracy, or making a false statement to law enforcement while hunting, fishing, or engaging in any activity regulated by the department, the department shall suspend the person's master hunter permit for life;

(d) If the person pays the required fine or is convicted of a felony prohibiting the possession of firearms, unless firearm possession is reinstated, the department shall suspend the person's master hunter permit for life;

(e) If the person has a hunting or fishing license revoked or has hunting or fishing license privileges suspended in another state, the department shall suspend the person's master hunter permit for life;

(f) If the person is cited, or charged by complaint, for an offense under this chapter; or for trespass, reckless endangerment, criminal conspiracy, or making a false statement to law

enforcement while hunting, fishing, or engaging in any activity regulated by the department, the department may immediately suspend the person's master hunter permit until the offense has been adjudicated; or

(g) If the person submits fraudulent information to the department, the department shall suspend the person's master hunter permit for life.

(2) Any master hunter who is notified of an intended suspension may request an appeal hearing under chapter 34.05 RCW. [2009 c 333 § 16.]

77.15.770 Unlawful trade in shark fins—Penalty. (1)

Except as otherwise provided in this section, a person is guilty of unlawful trade in shark fins in the second degree if:

(a) The person sells, offers for sale, purchases, offers to purchase, or otherwise exchanges a shark fin or shark fin derivative product for commercial purposes; or

(b) The person prepares or processes a shark fin or shark fin derivative product for human or animal consumption for commercial purposes.

(2) Except as otherwise provided in this section, a person is guilty of unlawful trade in shark fins in the first degree if:

(a) The person commits the act described by subsection (1) of this section and the violation involves shark fins or a shark fin derivative product with a total market value of two hundred fifty dollars or more;

(b) The person commits the act described by subsection (1) of this section and acted with knowledge that the shark fin or shark fin derivative product originated from a shark that was harvested in an area or at a time where or when the harvest was not legally allowed or by a person not licensed to harvest the shark; or

(c) The person commits the act described by subsection (1) of this section and the violation occurs within five years of entry of a prior conviction under this section or a prior conviction for any other gross misdemeanor or felony under this title involving fish, other than a recreational fishing violation.

(3)(a) Unlawful trade in shark fins in the second degree is a gross misdemeanor. Upon conviction, the department shall suspend any commercial fishing privileges for the person that requires a license under this title for a period of one year.

(b) Unlawful trade in shark fins in the first degree is a class C felony. Upon conviction, the department shall suspend any commercial fishing privileges for the person that requires a license under this title for a period of one year.

(4) Any person who obtains a license or permit issued by the department to take or possess sharks or shark parts for bona fide research or educational purposes, and who sells, offers for sale, purchases, offers to purchase, or otherwise trades a shark fin or shark fin derivative product, exclusively for bona fide research or educational purposes, may not be held liable under or subject to the penalties of this section. [2014 c 48 § 23; 2011 c 324 § 2.]

Findings—2011 c 324: "The legislature finds and declares the following:

(1) The practice of shark finning, where a shark is caught, its fins are sliced off while it is still alive, and the animal returned to the sea severely and almost always fatally wounded, constitutes a serious threat to Washington's coastal ecosystem and biodiversity. Sharks are particularly susceptible to overfishing because they only reach sexual maturity between seven to twelve years of age and hatch or birth small litters. The destruction of the population

of sharks, which reside at the top of the marine food chain, is an urgent problem that upsets the balance of species in the ocean ecosystem.

(2) Shark finning condemns millions of sharks every year to slow, painful deaths. Returned to the water without their fins, the maimed sharks are attacked by other predators or drown, because most shark species must swim in order to push water through their gills. Shark finning is therefore a cruel practice contrary to the good morals of the citizens of the state of Washington.

(3) The market for shark fins drives the brutal practice of shark finning. Shark finning and trade in shark fins and shark fin derivative products are occurring all along the Pacific Coast, including the state of Washington.

(4) The consumption of shark fins and shark fin derivative products by humans may cause serious health risks, including risks from mercury." [2011 c 324 § 1.]

77.15.780 Disposition of judicially forfeited seized property. When seized property, other than fish, shellfish, and wildlife, is judicially forfeited to the department, the department may: (1) Retain it for official use unless the property is required to be destroyed; (2) upon application by any law enforcement agency of the state, release the property to the agency for use in enforcing this title; (3) donate the property as provided under RCW 77.130.060; or (4) sell the property and deposit the proceeds into the fish and wildlife enforcement reward account created in RCW 77.15.425. Any sale of the property must be done in accordance with RCW 77.130.010(1) and 77.130.020. However, the requirement in those sections for notice to owners does not apply. [2012 c 176 § 12.]

77.15.790 Negligently feeding, attempting to feed, or attracting large wild carnivores to land or a building—Infraction. (1) A person may not negligently feed or attempt to feed large wild carnivores or negligently attract large wild carnivores to land or a building.

(2) If a fish and wildlife officer, ex officio fish and wildlife officer, or animal control authority, as defined in RCW 16.30.010, has probable cause to believe that a person is negligently feeding, attempting to feed, or attracting large wild carnivores to land or a building by placing or locating food, food waste, or other substance in, on, or about any land or building, and the food, food waste, or other substance poses a risk to the safety of any person, livestock, or pet because it is attracting or could attract large wild carnivores to the land or building, that person commits an infraction under chapter 7.84 RCW.

(3) Subsection (2) of this section does not apply to:

(a) A person who is engaging in forest practices in accordance with chapter 76.09 RCW or in hunting or trapping wildlife in accordance with all other applicable provisions of this title or rules of the commission or the director;

(b) A person who is engaging in a farming or ranching operation that is using generally accepted farming or ranching practices consistent with Titles 15 and 16 RCW;

(c) Waste disposal facilities that are operating in accordance with applicable federal, state, and municipal laws;

(d) Entities listed in RCW 16.30.020(1) (a) through (j) and scientific collection permit holders; or

(e) A fish and wildlife officer or employee or agent of the department operating under the authority of or upon request from an officer conducting authorized wildlife capture activities to address a threat to human safety or a wildlife interaction as defined in RCW 77.36.010.

(4) For persons and entities listed in subsection (3) of this section, a fish and wildlife officer, ex officio fish and wildlife officer, or animal control authority, as defined in RCW 16.30.010, may issue a written warning to the person or entity if:

(a) The officer or animal control authority can articulate facts to support that the person or entity has placed or is responsible for placing food, food waste, or other substance in, on, or about the person's or entity's land or buildings; and

(b) The food, food waste, or other substance poses a risk to the safety of any person, livestock, or pet because the food, food waste, or other substance is attracting or could attract large wild carnivores to the land or buildings.

(5)(a) Any written warning issued under subsection (4) of this section requires the person or entity placing or otherwise responsible for placing the food, food waste, or other substance to contain, move, or remove that food, food waste, or other substance within two days.

(b) If a person who is issued a written warning under (a) of this subsection fails to contain, move, or remove the food, food waste, or other substance as directed, the person commits an infraction under chapter 7.84 RCW. [2012 c 176 § 38.]

77.15.792 Intentionally feeding or attempting to feed large wild carnivores or intentionally attracting large wild carnivores to land or a building—Penalty. (1) A person may not intentionally feed or attempt to feed large wild carnivores or intentionally attract large wild carnivores to land or a building.

(2) A person who intentionally feeds, attempts to feed, or attracts large wild carnivores to land or a building is guilty of a misdemeanor.

(3) A person who is issued an infraction under RCW 77.15.790 for negligently feeding, attempting to feed, or attracting large wild carnivores to land or a building, and who fails to contain, move, or remove the food, food waste, or other substance within twenty-four hours of being issued the infraction, is guilty of a misdemeanor. [2012 c 176 § 39.]

77.15.800 Engaging in wildlife rehabilitation without a permit—Penalty. (1)(a) A person is guilty of engaging in wildlife rehabilitation without a permit if the person captures, transports, treats, feeds, houses, conditions, or trains injured, diseased, oiled, or abandoned wildlife without department authority for temporary actions or a wildlife rehabilitation permit issued by the department.

(b) The department must adopt rules for permissible temporary actions that include, at a minimum, the conditions under which a person may capture or transport wildlife to a primary permittee, subpermittee, or a rehabilitation facility.

(2) A person who is a primary permittee or subpermittee on a wildlife rehabilitation permit issued by the department is guilty of unlawful use of a wildlife rehabilitation permit if the person violates any permit provisions or department rules pertaining to wildlife rehabilitation other than those addressing recordkeeping and reporting requirements.

(3) A violation of this section is a misdemeanor. [2014 c 48 § 25.]

(2021 Ed.)

77.15.803 Inspection of aquatic conveyance. (1) Based upon reasonable suspicion that a person possesses an aquatic conveyance that has not been cleaned and drained or carries or contains aquatic invasive species in violation of this title, fish and wildlife officers or ex officio fish and wildlife officers may temporarily stop the person and inspect the aquatic conveyance for compliance with the requirements of this title.

(2) Unless the context clearly requires otherwise, the definitions in both RCW 77.08.010 and 77.135.010 apply throughout this section. [2014 c 202 § 201.]

Findings—2014 c 202: See note following RCW 77.135.010.

77.15.805 Violation of an invasive species law—Warrant. (1) Upon a showing of probable cause that there has been a violation of an invasive species law of the state of Washington, or upon a showing of probable cause to believe that evidence of such a violation may be found at a place, a court must issue a search warrant or arrest warrant. Fish and wildlife officers or ex officio fish and wildlife officers may execute any such search or arrest warrant reasonably necessary to carry out their duties under this title with regard to an invasive species law and may seize invasive species or any evidence of a crime and the fruits or instrumentalities of a crime as provided by warrant. The court may have property opened or entered and the contents examined.

(2) Seizure of property as evidence of a crime does not preclude seizure of the property for forfeiture as authorized by law. [2014 c 202 § 202.]

Findings—2014 c 202: See note following RCW 77.135.010.

77.15.807 Invasive species in or on water body or property—Warrant. (1) Upon a showing of probable cause that a water body or property has an invasive species in or on it, and the owner refuses permission to allow inspection of the water body or property, a court in the county in which the water body or property is located may, upon the request of the director or the director's designee, issue a warrant to the director or the director's designee authorizing the taking of specimens of invasive species, general inspection of the property or water body, and the performance of containment, eradication, or control work.

(2) Application for issuance, execution, and return of the warrant authorized by this section must be in accordance with the applicable rules of the superior courts or the district courts. [2014 c 202 § 203.]

Findings—2014 c 202: See note following RCW 77.135.010.

77.15.809 Unlawful use of invasive species in the second degree—Penalty. (1) A person is guilty of unlawful use of invasive species in the second degree if the person:

(a) Fails to stop at a mandatory check station or to return to the mandatory check station for inspection if directed to do so by a fish and wildlife officer or ex officio fish and wildlife officer;

(b) Fails to allow an aquatic conveyance stopped at a mandatory check station to be inspected for clean and drain requirements or aquatic invasive species;

(c) Fails to comply with a decontamination order;

(d) Possesses, except in the case of trafficking, a prohibited level 1 or level 2 species without department authorization, a permit, or as otherwise provided by rule;

(e) Possesses, introduces on or into a water body or property, or traffics in a prohibited level 3 species without department authorization, a permit, or as otherwise provided by rule;

(f) Introduces on or into a water body or property a regulated type A, type B, or type C species without department authorization, a permit, or as otherwise provided by rule;

(g) Fails to readily and clearly identify in writing by taxonomic species name or subspecies name a regulated type B species used for commercial purposes; or

(h) Knowingly violates a quarantine declaration under RCW 77.135.050.

(2) A violation of subsection (1) of this section is a gross misdemeanor. In addition to criminal penalties, a court may order the person to pay all costs in capturing, killing, or controlling the invasive species, including its progeny. This subsection does not affect the authority of the department to bring a separate civil action to recover habitat restoration costs necessitated by the person's unlawful use of invasive species.

(3) This section does not apply to:

(a) A person who complies with the department directives pursuant to RCW 77.135.120 for mandatory check stations. Such a person is exempt from criminal penalties under this section or RCW 77.15.811, and forfeiture under this chapter, unless the person has a prior conviction under those sections within the past five years;

(b) A person who possesses an aquatic invasive species, if the person is in the process of:

(i) Removing it from the aquatic conveyance in a manner specified by the department; or

(ii) Releasing it if caught while fishing and immediately returning it to the water body from which it came;

(c) Possessing or introducing nonnative aquatic animal species by ballast water held or discharged by vessels regulated under chapter 77.120 RCW; or

(d) Possessing or introducing nonnative aquatic animal species through private sector shellfish aquaculture operations, transfers, or conveyances regulated under chapter 77.115 RCW.

(4) Unless the context clearly requires otherwise, the definitions in both RCW 77.08.010 and 77.135.010 apply throughout this section. [2014 c 202 § 205.]

Findings—2014 c 202: See note following RCW 77.135.010.

77.15.811 Unlawful use of invasive species in the first degree—Penalty. (1) A person is guilty of unlawful use of invasive species in the first degree if the person:

(a) Traffics or introduces on or into a water body or property a prohibited level 1 or level 2 species without department authorization, a permit, or as otherwise provided by rule; or

(b) Commits a subsequent violation of unlawful use of invasive species in the second degree within five years of the date of a prior conviction under RCW 77.15.809.

(2) A violation of this section is a class C felony. In addition to criminal penalties, a court may order the person to pay all costs in managing the invasive species, including the species' progeny. This subsection does not affect the authority of

the department to bring a separate civil action to recover habitat restoration costs necessitated by the person's unlawful use of invasive species.

(3) This section does not apply to:

(a) A person who complies with department directives pursuant to RCW 77.135.120 for mandatory check stations, and who is exempt from criminal penalties under this section and forfeiture under this chapter, unless the person has a prior conviction under this section or RCW 77.15.809 within the past five years; or

(b) A person who possesses an aquatic invasive species, if the person is in the process of:

(i) Removing it from the aquatic conveyance in a manner specified by the department; or

(ii) Releasing it if caught while fishing and is immediately returning it to the water body from which it came.

(4) Unless the context clearly requires otherwise, the definitions in both RCW 77.08.010 and 77.135.010 apply throughout this section. [2014 c 202 § 206.]

Findings—2014 c 202: See note following RCW 77.135.010.

77.15.813 Unlawfully engaging in fishing guide activity—Penalty. (1) A person is guilty of unlawfully engaging in fishing guide activity if the person holds a game fish guide license issued under RCW 77.65.480 or has a license issued under RCW 77.65.010 to operate a charter boat or act as a food fish guide, and the person:

(a) Fails to perform any duty of a charter boat or guide operator established in RCW 77.32.430; or

(b) Violates any rule of the commission or director regarding the sale, possession, issuance, or reporting of temporary fishing licenses, temporary short-term charter stamps, or catch record cards.

(2) Unlawfully engaging in fishing guide activity is a gross misdemeanor. [2015 c 90 § 1.]

77.15.815 Unlawfully engaging in commercial whale watching—Penalty. (1) A person is guilty of unlawfully engaging in commercial whale watching in the second degree if the person:

(a) Does not have and possess all licenses and permits required under this title; or

(b) Violates any department rule regarding the operation of a commercial whale watching vessel near a southern resident orca whale.

(2) A person is guilty of engaging in commercial whale watching in the first degree if the person commits the act described in subsection (1) of this section and the violation occurs within one year of the date of a prior conviction under this section.

(3)(a) Unlawful commercial whale watching in the second degree is a misdemeanor.

(b) Unlawful commercial whale watching in the first degree is a gross misdemeanor. Upon conviction, the director shall deny applications submitted by the person for a commercial whale watching license or alternate operator license for two years from the date of conviction. [2019 c 291 § 4.]

77.15.900 Short title. This chapter may be known and cited as the fish and wildlife enforcement code. [1998 c 190 § 126.]

Chapter 77.18 RCW GAME FISH MITIGATION

Sections

- 77.18.050 Planting privately produced trout.
77.18.060 Determination of appropriate waters.

77.18.050 Planting privately produced trout. The legislature finds that it is beneficial to improve opportunities for trout fishing in order to satisfy the public's demand for recreational fishing during a time of declining opportunities to catch anadromous salmon and steelhead trout.

Fish farmers can produce trout in a triploid genetic configuration for the purpose of certifying that the fish are sterile and that they cannot interbreed with wild trout. These fish are ideally suited to planting into public lakes and ponds to provide immediate recreational fishing at a reasonable cost. The fish continue to grow throughout their life cycle and have the potential to grow to trophy size.

Planting of these catchable trout can provide increased angler participation, increased fishing license sales, increased tourism activities, and a boost to local economies.

The department of fish and wildlife is authorized to purchase these privately produced fish to supplement existing department trout hatchery production. The planting of these catchable trout in water bodies with water quality sufficient to support fish life must not have an adverse impact on the wild trout population. [1999 c 363 § 1.]

Additional notes found at www.leg.wa.gov

77.18.060 Determination of appropriate waters. The fish and wildlife commission in consultation with the department is authorized to determine which waters of the state are appropriate for this use. In making this determination, the commission shall seek geographic distribution to assure opportunity to fishers statewide.

The commission in consultation with the department will determine the maximum number of fish that may be planted into state waters so as not to compete with the wild populations of fish species in the water body. [2005 c 87 § 1; 1999 c 363 § 2.]

Additional notes found at www.leg.wa.gov

Chapter 77.32 RCW LICENSES

Sections

- 77.32.007 "Special hunting season" defined.
77.32.010 Recreational license required—Activities—Pass or permit for parking.
77.32.014 Licenses, tags, and stamps—Revocation/privileges suspended for noncompliance with support order.
77.32.025 Establishment of times and places for family fishing with no license or catch record card—Authorized.
77.32.050 Recreational and commercial licenses, permits, tags, stamps, and raffle tickets issued by authorized officials—Rules—Fees.
77.32.070 Information required from license applicants—Reports on taking/effort to harvest fish, shellfish, and wildlife—Administrative penalty.
77.32.090 Licenses, permits, tags, stamps, and raffle tickets—Rules for form, display, procedures.
77.32.155 Hunter education training program—Certificate—Deferral—Adoption of rules—Fee.
77.32.237 Enhancing the fish, shellfish, and wildlife-related recreational opportunities for a person with a disability—Disability designation—Rule-making authority.

(2021 Ed.)

- 77.32.240 Scientific permit—Procedures—Penalties—Fees.
77.32.250 Licenses nontransferable.
77.32.256 Duplicate licenses, rebates, permits, tags, and stamps—Fees.
77.32.320 Required licenses, tags—Transport tags for game.
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77.32.007 "Special hunting season" defined. For the purposes of this chapter "special hunting season" means a hunting season established by rule of the commission for the purpose of taking specified wildlife under a special hunting permit. [1984 c 240 § 8.]

77.32.010 Recreational license required—Activities—Pass or permit for parking. (1) Except as otherwise provided in this chapter or department rule, a recreational license issued by the director is required to hunt, fish, or take wildlife or seaweed. A recreational fishing or shellfish license is not required for carp, freshwater smelt, and crawfish, and a hunting license is not required for bullfrogs.

(2) A pass or permit issued under RCW 79A.80.020, 79A.80.030, or 79A.80.040 is required to park or operate a motor vehicle on a recreation site or lands, as defined in RCW 79A.80.010.

(3) The commission may, by rule, indicate that a fishing permit issued to a nontribal member by the Colville Tribes shall satisfy the license requirements in subsection (1) of this section on the waters of Lake Rufus Woods and on the north shore of Lake Rufus Woods, and that a Colville Tribes tribal member identification card shall satisfy the license requirements in subsection (1) of this section on all waters of Lake Rufus Woods. [2019 c 290 § 3; 2014 c 48 § 26; 2011 c 320 § 19; 2009 c 564 § 956; 2008 c 329 § 923; 2006 c 57 § 1; 2001 c 253 § 49; 2000 c 107 § 264; 1998 c 191 § 7; 1987 c 506 § 76; 1985 c 457 § 25; 1983 c 284 § 2; 1981 c 310 § 7; 1980 c 78 § 103; 1979 ex.s. c 3 § 1; 1959 c 245 § 1; 1955 c 36 §

77.32.010. Prior: 1947 c 275 § 93; Rem. Supp. 1947 § 5992-102.]

Finding—Intent—2019 c 290: See note following RCW 77.12.085.

Effective date—2011 c 320: See note following RCW 79A.80.005.

Findings—Intent—2011 c 320: See RCW 79A.80.005.

Legislative findings and intent—1987 c 506: See note following RCW 77.04.020.

Findings—Intent—1983 c 284: See note following RCW 82.27.020.

Effective dates—Legislative intent—1981 c 310: See notes following RCW 77.12.170.

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

Additional notes found at www.leg.wa.gov

77.32.014 Licenses, tags, and stamps—Revocation/privileges suspended for noncompliance with support order. Licenses, tags, and stamps issued pursuant to this chapter shall be revoked and the privileges suspended for any period in which a person is certified by the department of social and health services or a court of competent jurisdiction as a person in noncompliance with a support order. Fish and wildlife officers and ex officio fish and wildlife officers shall enforce this section through checks of the department of licensing's computer database. A listing on the department of licensing's database that an individual's license is currently suspended pursuant to RCW 46.20.291(8) shall be prima facie evidence that the individual is in noncompliance with a support order. Presentation of a written release issued by the department of social and health services stating that the person is in compliance with an order shall serve as prima facie proof of compliance with a support order. [2001 c 253 § 50; 2000 c 107 § 265; 1998 c 191 § 8; 1997 c 58 § 881.]

Effective dates—Intent—1997 c 58: See notes following RCW 74.20A.320.

Additional notes found at www.leg.wa.gov

77.32.025 Establishment of times and places for family fishing with no license or catch record card—Authorized. Notwithstanding RCW 77.32.010, the commission may adopt rules designating times and places for the purposes of family fishing days when licenses and catch record cards are not required to fish or to harvest shellfish. [1998 c 191 § 9; 1996 c 20 § 2; 1987 c 506 § 103.]

Legislative findings and intent—1987 c 506: See note following RCW 77.04.020.

Additional notes found at www.leg.wa.gov

77.32.050 Recreational and commercial licenses, permits, tags, stamps, and raffle tickets issued by authorized officials—Rules—Fees. (1) All recreational and commercial licenses, permits, tags, stamps, and raffle tickets shall be issued under the authority of the commission. The commission shall adopt rules for the issuance of licenses, permits, tags, stamps, and raffle tickets, and for the collection, payment, and handling of license fees, including terms and conditions to govern dealers, and dealer fees. A transaction fee on commercial and recreational documents issued through an automated licensing system may be set by the commission and collected from licensees. The department may authorize all or part of such fee to be paid directly to a contractor providing automated licensing system services. The department

and dealers shall collect and retain dealer fees of at least two dollars for purchase of a standard hunting or fishing recreational license document or commercial license document, except that the commission may set a lower dealer fee for issuance of tags or when a licensee buys a license that involves a stamp or display card format rather than a standard department licensing document form. Dealer fees must be uniform throughout the state.

(2) The application fee is waived for all commercial license documents that are issued through the automated licensing system. [2020 c 148 § 17; 2011 c 339 § 5; 2009 c 333 § 71; 2003 c 389 § 1; 2000 c 107 § 266; 1999 c 243 § 2; 1998 c 191 § 10; 1996 c 101 § 8; 1995 c 116 § 1; 1987 c 506 § 77; 1981 c 310 § 16; 1980 c 78 § 106; 1979 ex.s. c 3 § 2; 1955 c 36 § 77.32.050. Prior: 1953 c 75 § 2; 1947 c 275 § 97; Rem. Supp. 1947 § 5992-106.]

Intent—Effective date—2020 c 148: See notes following RCW 77.12.170.

Effective date—2011 c 339 § 5: "Section 5 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect June 30, 2011." [2011 c 339 § 41.]

Finding—1999 c 243: "The legislature finds that recreational license dealers are private businesses that provide the service of license sales in every part of the state. The dealers who sell recreational fishing and hunting licenses for the department of fish and wildlife perform a valuable public service function for those members of the public who purchase licenses as well as a revenue generating function for the department. The modernized fishing and hunting license format will require additional investments by license dealers in employee training and public education." [1999 c 243 § 1.]

Findings—1996 c 101: See note following RCW 77.32.530.

Legislative findings and intent—1987 c 506: See note following RCW 77.04.020.

Effective dates—Legislative intent—1981 c 310: See notes following RCW 77.12.170.

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

Additional notes found at www.leg.wa.gov

77.32.070 Information required from license applicants—Reports on taking/effort to harvest fish, shellfish, and wildlife—Administrative penalty. (1) Applicants for a license, permit, tag, or stamp shall furnish the information required by the director. However, the director may not require the purchaser of a razor clam license under RCW 77.32.520 to provide any personal information except for proof of residency. The commission may adopt rules requiring licensees or permittees to keep records and make reports concerning the taking of or effort to harvest fish, shellfish, and wildlife. The reporting requirement may be waived where, for any reason, the department is not able to receive the report. The department must provide reasonable options for a licensee to submit information to a live operator prior to the reporting deadline.

(2) The commission may, by rule, set an administrative penalty for failure to comply with rules requiring the reporting of taking or effort to harvest wildlife. The commission may also adopt rules requiring hunters who have not reported for the previous license year to complete a report and pay the assessed administrative penalty before a new hunting license is issued.

(a) The total administrative penalty per hunter set by the commission must not exceed ten dollars.

(b) By December 31st of each year, the department shall report the rate of hunter compliance with the harvest reporting requirement, the administrative penalty imposed for failing to report, and the amount of administrative penalties collected during that year to the appropriate fiscal and policy committees of the senate and house of representatives.

(3) The commission may, by rule, set an administrative penalty for failure to comply with rules requiring the reporting of data from catch record cards officially endorsed for Puget Sound Dungeness crab. The commission may also adopt rules requiring fishers who possessed a catch record card officially endorsed for Puget Sound Dungeness crab and who have not reported for the previous license year to complete a report and pay the assessed administrative penalty before a new catch record card officially endorsed for Puget Sound Dungeness crab is issued.

(a) The total administrative penalty per fisher set by the commission must not exceed ten dollars.

(b) By December 31st of each year, the department shall report the rate of fisher compliance with the Puget Sound Dungeness crab catch record card reporting requirement, the administrative penalty imposed for failing to report, and the amount of administrative penalties collected during that year to the appropriate fiscal and policy committees of the senate and house of representatives. [2008 c 244 § 1; 2005 c 418 § 1; 2004 c 248 § 3; 1998 c 191 § 11; 1995 c 116 § 3; 1987 c 506 § 79; 1981 c 310 § 18; 1980 c 78 § 108; 1955 c 36 § 77.32.070. Prior: 1947 c 275 § 99; Rem. Supp. 1947 § 5992-108.]

Legislative findings and intent—1987 c 506: See note following RCW 77.04.020.

Effective dates—Legislative intent—1981 c 310: See notes following RCW 77.12.170.

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

Additional notes found at www.leg.wa.gov

77.32.090 Licenses, permits, tags, stamps, and raffle tickets—Rules for form, display, procedures. The commission may adopt rules pertaining to the form, period of validity, use, possession, and display of licenses, permits, tags, stamps, and raffle tickets required by this chapter. [2000 c 107 § 267; 1998 c 191 § 12; 1996 c 101 § 10; 1995 c 116 § 4; 1987 c 506 § 80; 1981 c 310 § 19; 1980 c 78 § 109; 1955 c 36 § 77.32.090. Prior: 1947 c 275 § 101; Rem. Supp. 1947 § 5992-110.]

Findings—1996 c 101: See note following RCW 77.32.530.

Legislative findings and intent—1987 c 506: See note following RCW 77.04.020.

Effective dates—Legislative intent—1981 c 310: See notes following RCW 77.12.170.

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

Additional notes found at www.leg.wa.gov

77.32.155 Hunter education training program—Certificate—Deferral—Adoption of rules—Fee. (1)(a) When purchasing any hunting license, persons under the age of eighteen shall present certification of completion of a course of instruction of at least ten hours in the safe handling of firearms, safety, conservation, and sporting/hunting behavior.

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All persons purchasing any hunting license for the first time, if born after January 1, 1972, shall present such certification.

(b)(i) The director may establish a program for training persons in the safe handling of firearms, conservation, and sporting/hunting behavior and shall prescribe the type of instruction and the qualifications of the instructors. The director shall, as part of establishing the training program, exempt the following individuals from the firearms skills portion of any instruction course completed over the internet:

(A) Members of the United States military;

(B) Current or retired general authority Washington peace officers as defined in RCW 10.93.020;

(C) Current or retired limited authority Washington peace officers as defined in RCW 10.93.020, if the officer is or was duly authorized by his or her employer to carry a concealed pistol;

(D) Current or retired specially commissioned Washington peace officers as defined in RCW 10.93.020, if the officer is or was duly authorized by his or her commissioning agency to carry a concealed pistol; and

(E) Current or retired Washington peace officers as defined in RCW 43.101.010 who have met the requirements of RCW 43.101.095 or 43.101.157 and whose certification is in good standing or has not been revoked.

(ii) The director may cooperate with the national rifle association, organized sports/outdoor enthusiasts' groups, or other public or private organizations when establishing the training program.

(c) Upon the successful completion of a course established under this section, the trainee shall receive a hunter education certificate signed by an authorized instructor. The certificate is evidence of compliance with this section.

(d) The director may accept certificates from other states that persons have successfully completed firearm safety, hunter education, or similar courses as evidence of compliance with this section.

(2)(a) The director may authorize a once in a lifetime, one license year deferral of hunter education training for individuals who are accompanied by a nondeferred Washington-licensed hunter who has held a Washington hunting license for the prior three years and is over eighteen years of age. The commission shall adopt rules for the administration of this subsection to avoid potential fraud and abuse.

(b) The director is authorized to collect an application fee, not to exceed twenty dollars, for obtaining the once in a lifetime, one license year deferral of hunter education training from the department. This fee must be deposited into the fish and wildlife enforcement reward account and must be used exclusively to administer the deferral program created in this subsection.

(c) For the purposes of this subsection, "accompanied" means to go along with another person while staying within a range of the other person that permits continual unaided visual and auditory communication.

(3) To encourage the participation of an adequate number of instructors for the training program, the commission shall develop nonmonetary incentives available to individuals who commit to serving as an instructor. The incentives may include additional hunting opportunities for instructors. [2017 c 255 § 1; 2013 c 23 § 243; 2009 c 269 § 1; 2007 c 163 § 1; 2006 c 23 § 1; 1998 c 191 § 17; 1993 c 85 § 1; 1987 c 506

§ 81; 1981 c 310 § 21; 1980 c 78 § 104; 1957 c 17 § 1. Formerly RCW 77.32.015.]

Legislative findings and intent—1987 c 506: See note following RCW 77.04.020.

Effective dates—Legislative intent—1981 c 310: See notes following RCW 77.12.170.

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

Additional notes found at www.leg.wa.gov

77.32.237 Enhancing the fish, shellfish, and wildlife-related recreational opportunities for a person with a disability—Disability designation—Rule-making authority. The commission shall enhance the fish, shellfish, and wildlife-related recreational opportunities for a person with a disability. The commission shall authorize the director to grant a disability designation to a person with a disability who meets eligibility criteria established by the commission by rule. The commission shall adopt rules defining who is a person with a disability for purposes of eligibility for disability designation. A person granted a disability designation is eligible for reasonable accommodations, determined by the director, to allow the person to participate in fish, shellfish, and wildlife-related recreational activities. The commission shall adopt rules governing the conduct of a person with a disability participating in fish, shellfish, and wildlife-related recreational activities and the conduct of companions permitted, as a reasonable accommodation, to assist such a person in fish, shellfish, and wildlife-related recreational opportunities. [2018 c 168 § 2; 2007 c 254 § 6; 1989 c 297 § 1.]

77.32.240 Scientific permit—Procedures—Penalties—Fees. A scientific permit allows the holder to collect for research or display food fish, game fish, shellfish, and wildlife, including avian nests and eggs as required in RCW 77.32.010, under conditions prescribed by the director. Before a permit is issued, the applicant shall demonstrate to the director their qualifications and establish the need for the permit. The director may require a bond of up to one thousand dollars to ensure compliance with the permit. Permits are valid for the time specified, unless sooner revoked.

Holders of permits may exchange specimens with the approval of the director.

A permit holder who violates this section shall forfeit the permit and bond and shall not receive a similar permit for one year. The fee for a scientific permit is twelve dollars. The application fee is one hundred five dollars. [2011 c 339 § 6; 1998 c 191 § 21; 1991 sp.s. c 7 § 6; 1981 c 310 § 28; 1980 c 78 § 119; 1955 c 36 § 77.32.240. Prior: 1947 c 275 § 113; Rem. Supp. 1947 § 5992-122.]

Effective date—2011 c 339: See note following RCW 43.84.092.

Effective dates—Legislative intent—1981 c 310: See notes following RCW 77.12.170.

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

Additional notes found at www.leg.wa.gov

77.32.250 Licenses nontransferable. Except as authorized in RCW 77.32.565, licenses, permits, tags, and stamps required by this chapter and raffle tickets authorized under this chapter shall not be transferred. [2008 c 10 § 3; 2001 c

253 § 51; 2000 c 107 § 269; 1998 c 191 § 22; 1996 c 101 § 12; 1995 c 116 § 5; 1981 c 310 § 29; 1980 c 78 § 120; 1955 c 36 § 77.32.250. Prior: 1947 c 275 § 114; Rem. Supp. 1947 § 5992-123.]

Findings—1996 c 101: See note following RCW 77.32.530.

Effective dates—Legislative intent—1981 c 310: See notes following RCW 77.12.170.

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

Additional notes found at www.leg.wa.gov

77.32.256 Duplicate licenses, rebates, permits, tags, and stamps—Fees. The director shall by rule establish the conditions and fees for issuance of duplicate licenses, rebates, permits, tags, and stamps required by this chapter. The fee for duplicate licenses, rebates, permits, tags, and stamps, except catch record cards, may not exceed the actual cost to the department for issuing the duplicate. [2003 c 318 § 2; 2002 c 222 § 1; 1995 c 116 § 6; 1994 c 255 § 13; 1991 sp.s. c 7 § 7; 1987 c 506 § 86; 1985 c 464 § 7; 1981 c 310 § 30; 1980 c 78 § 121; 1975 1st ex.s. c 15 § 32.]

Legislative findings and intent—1987 c 506: See note following RCW 77.04.020.

Effective dates—Legislative intent—1981 c 310: See notes following RCW 77.12.170.

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

Additional notes found at www.leg.wa.gov

77.32.320 Required licenses, tags—Transport tags for game. (1) The correct licenses and tags are required to hunt deer, elk, black bear, cougar, sheep, mountain goat, moose, or wild turkey except as provided in RCW 77.32.450.

(2) Persons who kill deer, elk, bear, cougar, mountain goat, sheep, moose, or wild turkey shall immediately validate and attach their own transport tag to the carcass as provided by rule of the director. [1998 c 191 § 23; 1997 c 114 § 1; 1990 c 84 § 4; 1987 c 506 § 87; 1981 c 310 § 8.]

Legislative findings and intent—1987 c 506: See note following RCW 77.04.020.

Effective dates—Legislative intent—1981 c 310: See notes following RCW 77.12.170.

Additional notes found at www.leg.wa.gov

77.32.350 Migratory birds—Supplemental permit—Fees. In addition to a small game hunting license, a supplemental permit is required to hunt for migratory birds.

A migratory bird permit is required for all persons sixteen years of age or older to hunt migratory birds. The fee for the permit for hunters is fifteen dollars for residents and non-residents. [2011 c 339 § 7; 2009 c 333 § 72; 2002 c 283 § 1; 2000 c 107 § 270; 1998 c 191 § 25; 1998 c 191 § 24; 1992 c 41 § 1; 1991 sp.s. c 7 § 9; 1990 c 84 § 6; 1989 c 365 § 1; 1987 c 506 § 105. Prior: 1985 c 464 § 9; 1985 c 243 § 1; 1984 c 240 § 6; 1981 c 310 § 12.]

Effective date—2011 c 339: See note following RCW 43.84.092.

Legislative findings and intent—1987 c 506: See note following RCW 77.04.020.

Effective dates—Legislative intent—1981 c 310: See notes following RCW 77.12.170.

Additional notes found at www.leg.wa.gov

77.32.370 Special hunting season permits—Fee. (1) A special hunting season permit is required to hunt in each special season.

(2) Persons may apply for special hunting season permits as provided by rule of the commission.

(3) The application fee to enter a drawing for a special hunting season permit or authorization is:

(a) Six dollars for residents, or one hundred dollars for nonresidents, for the permits in categories designated by the commission for deer or elk, female big game, or for small game;

(b) Twelve dollars for residents, or one hundred dollars for nonresidents, for the permits that the commission designates as "quality" hunts that allow the harvest of buck deer, bull elk, or allow the harvest of male big game species that are only available for hunting by special permit;

(c) Twelve dollars for residents and nonresidents to apply for special authorizations to hunt for migratory birds; and

(d) Three dollars for youth for any special hunt drawing or special authorization. [2011 c 339 § 8; 1998 c 191 § 26; 1991 sp.s. c 7 § 11; 1987 c 506 § 89; 1984 c 240 § 7; 1981 c 310 § 14.]

Effective date—2011 c 339: See note following RCW 43.84.092.

Legislative findings and intent—1987 c 506: See note following RCW 77.04.020.

Effective dates—Legislative intent—1981 c 310: See notes following RCW 77.12.170.

Additional notes found at www.leg.wa.gov

77.32.410 Personal use fishing license—Reciprocity with Oregon in concurrent waters of Columbia river and coastal waters. In concurrent waters of the Columbia river and in Washington coastal territorial waters from the Oregon-Washington boundary to a point five nautical miles north, an Oregon angling license comparable to the Washington personal use fishing license is valid if Oregon recognizes as valid the Washington personal use fishing license in comparable Oregon waters.

If Oregon recognizes as valid the Washington personal use fishing license southward to Cape Falcon in the coastal territorial waters from the Washington-Oregon boundary and in concurrent waters of the Columbia river then Washington shall recognize a valid Oregon license comparable to the Washington personal use fishing license northward to Lead-better Point.

Oregon licenses are not valid for the taking of food fish or game fish when angling in concurrent waters of the Columbia river from the Washington shore. [1998 c 191 § 3; 1994 c 255 § 6; 1993 sp.s. c 17 § 7; 1989 c 305 § 9; 1987 c 87 § 4; 1985 c 174 § 1; 1983 1st ex.s. c 46 § 96; 1977 ex.s. c 327 § 17. Formerly RCW 75.25.120, 75.28.670.]

Finding—Contingent effective date—Severability—1993 sp.s. c 17: See notes following RCW 77.32.520.

Additional notes found at www.leg.wa.gov

77.32.430 Catch record card—Disposition of funds.

(1) Catch record card information is necessary for proper management of the state's food fish and game fish species and shellfish resources. Catch record card administration shall be under rules adopted by the commission. Except as provided

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in this section, there is no charge for an initial catch record card. Each subsequent or duplicate catch record card costs eleven dollars.

(2) A license to take and possess Dungeness crab is only valid in Puget Sound waters east of the Bonilla-Tatoosh line if the fisher has in possession a valid catch record card officially endorsed for Dungeness crab. The endorsement shall cost no more than seven dollars and fifty cents when purchased for a personal use saltwater, combination, or shellfish and seaweed license. The endorsement shall cost no more than three dollars when purchased for a temporary combination fishing license authorized under RCW 77.32.470(3)(a).

(3) Catch record cards issued with affixed temporary short-term charter stamp licenses are neither subject to the ten-dollar charge nor to the Dungeness crab endorsement fee provided for in this section. Charter boat or guide operators issuing temporary short-term charter stamp licenses shall affix the stamp to each catch record card issued before fishing commences. Catch record cards issued with a temporary short-term charter stamp are valid for one day.

(4) A catch record card for halibut may not cost more than five dollars when purchased with an annual saltwater or combination fishing license and must be provided at no cost for those who purchase a one-day temporary saltwater fishing license or one-day temporary charter stamp.

(5) The department shall include provisions for recording marked and unmarked salmon in catch record cards issued after March 31, 2004.

(6)(a) The funds received from the sale of catch record cards, catch card penalty fees, and the Dungeness crab endorsement must be deposited into the limited fish and wildlife account created in RCW 77.12.170(1).

(i)(A) One dollar of the funds received from the sale of each Dungeness crab endorsement must be used for the removal and disposal of derelict shellfish gear either directly by the department or under contract with a third party. The department is required to maintain a separate accounting of these funds and provide an annual report to the commission and the legislature by January 1st of every year.

(B) The remaining portion of the funds received from the sale of each Dungeness crab endorsement must be used for education, sampling, monitoring, and management of catch associated with the Dungeness crab recreational fisheries.

(ii) Funds received from the sale of halibut catch record cards must be used for monitoring and management of recreational halibut fisheries, including expanding opportunities for recreational anglers.

(b) Moneys allocated under this section shall supplement and not supplant other federal, state, and local funds used for Dungeness crab recreational fisheries management. [2020 c 148 § 18; 2018 c 190 § 1; 2011 c 339 § 9; 2010 c 193 § 11; 2009 c 333 § 40; 2005 c 192 § 2; 2004 c 107 § 2; 2003 c 318 § 1; 1998 c 191 § 5; 1989 c 305 § 10. Formerly RCW 75.25.190.]

Intent—Effective date—2020 c 148: See notes following RCW 77.12.170.

Effective date—2011 c 339: See note following RCW 43.84.092.

Intent—2004 c 107: "It is the intent of the legislature to optimize the management of the recreational allocation of Dungeness crab in Washington state. To accomplish this task, it is necessary to accurately and efficiently quantify the total catch by recreational fishers for Dungeness crab using data

from catch record cards. Therefore, an endorsement fee on the catch record card paid at the time of purchasing a recreational fishing license will be required for Dungeness crab to specifically identify the recreational crab harvesting population. The endorsement fee will significantly improve the precision of the catch estimates by eliminating the current practice of sampling fishers who do not participate in the recreational crab fishery." [2004 c 107 § 1.]

Additional notes found at www.leg.wa.gov

77.32.440 Enhancement programs—Funding levels—Rules—Deposit to warm water game fish account.

(1) The commission shall adopt rules to continue funding current enhancement programs at levels equal to the participation of licensees in each of the individual enhancement programs. All enhancement funding will continue to be deposited directly into the individual accounts created for each enhancement.

(2) In implementing subsection (1) of this section with regard to warm water game fish, the department shall deposit in the warm water game fish account the sum of one million two hundred fifty thousand dollars each fiscal year during the fiscal years 1999 and 2000, based on two hundred fifty thousand warm water anglers. Beginning in fiscal year 2001, and each year thereafter, the deposit to the warm water game fish account established in this subsection shall be adjusted annually to reflect the actual numbers of license holders fishing for warm water game fish based on an annual survey of licensed anglers from the previous year conducted by the department beginning with the April 1, 1999, to March 31, 2000, license year survey. [1999 c 235 § 2; 1998 c 191 § 13.]

Additional notes found at www.leg.wa.gov

77.32.450 Big game hunting license—Fees. (1) A big game hunting license is required to hunt for big game. A big game license allows the holder to hunt for forest grouse, unclassified wildlife, and the individual species identified within a specific big game combination license package. Each big game license includes one transport tag for each species purchased in that package. A hunter may not purchase more than one license for each big game species except as authorized by rule of the commission. The fees for annual big game combination packages are as follows:

(a) Big game number 1: Deer, elk, bear, and cougar. The fee for this license is eighty-five dollars for residents, seven hundred eighty dollars for nonresidents, and forty dollars for youth.

(b) Big game number 2: Deer and elk. The fee for this license is seventy-five dollars for residents, six hundred seventy dollars for nonresidents, and thirty-five dollars for youth.

(c) Big game number 3: Deer. The fee for this license is thirty-nine dollars for residents, three hundred ninety-three dollars for nonresidents, and eighteen dollars for youth.

(d) Big game number 4: Elk. The fee for this license is forty-four dollars for residents, four hundred fifty dollars for nonresidents, and eighteen dollars for youth.

(e) Big game number 5: Bear. The fee for this license is twenty dollars for residents, two hundred dollars for nonresidents, and ten dollars for youth.

(f) Big game number 6: Cougar. The fee for this license is twenty dollars for residents, two hundred dollars for nonresidents, and ten dollars for youth.

(2) In the event that the commission authorizes a two animal big game limit, the fees for the second animal are as follows:

(a) Elk: The fee is sixty dollars for residents, three hundred fifty dollars for nonresidents, and twenty dollars for youth.

(b) Deer: The fee is sixty dollars for residents, two hundred fifty dollars for nonresidents, and twenty dollars for youth.

(3) In the event that the commission authorizes a special permit hunt for goat, sheep, moose, or other big game species not specified the permit fees are three hundred dollars for residents, one thousand five hundred dollars for nonresidents, and fifty dollars for youth.

(4) Multiple season big game permit: The commission may, by rule, offer permits for hunters to hunt deer or elk during more than one general season. Only one deer or elk may be harvested annually under a multiple season big game permit. The fee is one hundred sixty-five dollars.

(5) Authorization to hunt the species set out under subsection (3) of this section is by special permit issued under RCW 77.32.370. [2011 c 339 § 10; 2005 c 140 § 1; 2000 c 109 § 1; 1998 c 191 § 14.]

Effective date—2011 c 339: See note following RCW 43.84.092.

Additional notes found at www.leg.wa.gov

77.32.460 Small game hunting license—Turkey tags—Fees. (1) A small game hunting license is required to hunt for all classified wild animals and wild birds, except big game. A small game license also allows the holder to hunt for unclassified wildlife.

(a) The fee for this license is thirty-five dollars for residents, one hundred sixty-five dollars for nonresidents, and fifteen dollars for youth.

(b) The fee for this license if purchased at the same time as a big game combination license package is twenty dollars for residents, eighty-eight dollars for nonresidents, and eight dollars for youth.

(c) The fee for a three-consecutive-day small game license is sixty dollars for nonresidents.

(2) In addition to a small game license, a turkey tag is required to hunt for turkey.

(a) The fee for a primary turkey tag is fourteen dollars for residents and forty dollars for nonresidents. A primary turkey tag will, on request, be issued to the purchaser of a youth small game license at no charge.

(b) The fee for each additional turkey tag is fourteen dollars for residents, sixty dollars for nonresidents, and ten dollars for youth.

(c) One-third of the moneys received from turkey tags must be appropriated solely for the purposes of turkey management within the limited fish and wildlife account. An additional one-third of the moneys received from turkey tags must be appropriated solely for upland game bird management within the limited fish and wildlife account created in RCW 77.12.170(1). The remainder of the moneys received from turkey tags must be appropriated to the fish, wildlife, and conservation account created in RCW 77.12.170(3). Moneys received from turkey tags may not supplant existing funds provided for these purposes. [2020 c 148 § 19; 2011 c 339 § 11; 2006 c 15 § 1; 2000 c 109 § 2; 1998 c 191 § 15.]

Intent—Effective date—2020 c 148: See notes following RCW 77.12.170.

Effective date—2011 c 339: See note following RCW 43.84.092.

Additional notes found at www.leg.wa.gov

77.32.470 Personal use fishing licenses—Fees—Temporary fishing licenses—Family fishing weekend license—Rule-making authority—Combination licenses for hunting and fishing—Two fishing poles per fishing license holder. (1) A personal use saltwater, freshwater, combination, temporary, or family fishing weekend license is required for all persons fifteen years of age or older to fish for or possess fish taken for personal use from state waters or offshore waters.

(2) The fees for annual personal use saltwater, freshwater, or combination licenses are as follows:

(a) A combination license allows the holder to fish for or possess fish, shellfish, and seaweed from state waters or offshore waters. The fee for this license is forty-five dollars for residents, one hundred eight dollars for nonresidents, and five dollars for youth. There is an additional fifty-cent surcharge for this license, to be deposited in the rockfish research account created in RCW 77.12.702.

(b) A saltwater license allows the holder to fish for or possess fish taken from saltwater areas. The fee for this license is twenty-five dollars for residents, fifty-two dollars for nonresidents, and five dollars for resident seniors. There is an additional fifty-cent surcharge for this license, to be deposited in the rockfish research account created in RCW 77.12.702.

(c) A freshwater license allows the holder to fish for, take, or possess food fish or game fish species in all freshwater areas. The fee for this license is twenty-five dollars for residents, seventy-five dollars for nonresidents, and five dollars for resident seniors.

(3)(a) A temporary combination fishing license is valid for one to three consecutive days and allows the holder to fish for or possess fish, shellfish, and seaweed taken from state waters or offshore waters. The fee for this temporary fishing license is:

(i) One day - Eight dollars for residents and sixteen dollars for nonresidents;

(ii) Two days - Twelve dollars for residents and twenty-four dollars for nonresidents; and

(iii) Three days - Fifteen dollars for residents and thirty dollars for nonresidents.

(b) The fee for a charter stamp is eight dollars for a one-day temporary combination fishing license for residents and nonresidents for use on a charter boat as defined in RCW 77.65.150.

(c) Except for active duty military personnel serving in any branch of the United States armed forces, the temporary combination fishing license is not valid on game fish species for an eight-consecutive-day period beginning on the opening day of the lowland lake fishing season as defined by rule of the commission.

(d) The temporary combination fishing license fee for active duty military personnel serving in any branch of the United States armed forces is the resident rate as set forth in (a) of this subsection. Active duty military personnel must

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provide a valid military identification card at the time of purchase of the temporary license to qualify for the resident rate.

(e) There is an additional fifty-cent surcharge on the temporary combination fishing license and the associated charter stamp, to be deposited in the rockfish research account created in RCW 77.12.702.

(4) A family fishing weekend license allows for a maximum of six anglers: One resident and five youth; two residents and four youth; or one resident, one nonresident, and four youth. This license allows the holders to fish for or possess fish taken from state waters or offshore waters. The fee for this license is twenty dollars. This license is only valid during periods as specified by rule of the department.

(5) The commission may adopt rules to create and sell combination licenses for all hunting and fishing activities at or below a fee equal to the total cost of the individual license contained within any combination.

(6) The commission may adopt rules to allow the use of two fishing poles per fishing license holder for use on selected state waters. If authorized by the commission, license holders must purchase a two-pole stamp to use a second pole. The proceeds from the sale of the two-pole stamp must be deposited into the limited fish and wildlife account created in RCW 77.12.170(1) and used for the operation and maintenance of state-owned fish hatcheries. The fee for a two-pole stamp is thirteen dollars for residents and nonresidents, and five dollars for seniors. [2020 c 148 § 20; 2011 c 339 § 12; 2009 c 333 § 6; 2008 c 35 § 1; 2007 c 442 § 5; 2005 c 192 § 1; 2003 c 181 § 1; 1998 c 191 § 16.]

Intent—Effective date—2020 c 148: See notes following RCW 77.12.170.

Effective date—2011 c 339: See note following RCW 43.84.092.

Findings—Intent—Effective date—2007 c 442: See notes following RCW 77.12.702.

Additional notes found at www.leg.wa.gov

77.32.480 Reduced rate licenses. (1) Upon written application, a combination fishing license shall be issued at the reduced rate of five dollars and all hunting licenses shall be issued at the reduced rate of a youth hunting license fee for the following individuals:

(a) A resident sixty-five years old or older who is an honorably discharged veteran of the United States armed forces having a service-connected disability;

(b) A resident who is an honorably discharged veteran of the United States armed forces with a thirty percent or more service-connected disability;

(c) A resident with a disability who permanently uses a wheelchair;

(d) A resident who is blind or visually impaired; and

(e) A resident with a developmental disability as defined in RCW 71A.10.020 with documentation of the disability certified by a physician licensed to practice in this state.

(2) Upon department verification of eligibility, a non-state resident veteran with a disability who otherwise satisfies the criteria of subsection (1)(a) and (b) of this section must be issued a combination fishing license or any hunting license at the same cost charged to a nondisabled Washington resident for the same license.

(3) Upon written application and department verification, the following recreational hunting licenses must be

issued at no cost to a resident member of the state guard or national guard, as defined in RCW 38.04.010, as long as the state guard or national guard member is: An active full-time state guard or national guard employee; or a state guard or national guard member whose status requires the state guard or national guard member to participate in drill training on a part-time basis:

(a) A small game hunting license under RCW 77.32.460(1);

(b) A supplemental migratory bird permit under RCW 77.32.350; and

(c) A big game hunting license under RCW 77.32.450 (1) and (2). [2016 c 78 § 1; 2013 c 101 § 1; 2007 c 254 § 3; 1998 c 191 § 18.]

Effective date—2013 c 101: "This act takes effect February 1, 2014." [2013 c 101 § 2.]

Additional notes found at www.leg.wa.gov

77.32.500 Saltwater, freshwater transition areas—Rule-making authority. In order to simplify fishing license requirements in transition areas between salt water and fresh water, the commission may adopt rules designating specific waters where either a fresh water or a salt water license is valid. [1998 c 191 § 41.]

Additional notes found at www.leg.wa.gov

77.32.520 Personal use shellfish and seaweed license—Razor clam license—Fees—License available for inspection. (1) A personal use shellfish and seaweed license is required for all persons other than residents or non-residents under fifteen years of age to fish for, take, dig for, or possess seaweed or shellfish, including razor clams, for personal use from state waters or offshore waters including national park beaches.

(2) A razor clam license allows a person to harvest only razor clams for personal use from state waters, including national park beaches.

(3) The fees for annual personal use shellfish and seaweed licenses are:

(a) For a resident fifteen years of age or older, ten dollars;

(b) For a nonresident fifteen years of age or older, twenty-seven dollars; and

(c) For a senior, five dollars.

(4) The fee for an annual razor clam license is eight dollars for residents, fifteen dollars for nonresidents, and eight dollars for seniors.

(5) The fee for a three-day razor clam license is five dollars for both residents and nonresidents.

(6) A personal use shellfish and seaweed license or razor clam license must be in immediate possession of the licensee and available for inspection while a licensee is harvesting shellfish or seaweed. However, the license does not need to be visible at all times. [2011 c 339 § 13; 2007 c 336 § 1; 2004 c 248 § 1; 2000 c 107 § 27; 1999 c 243 § 3; 1998 c 191 § 2; 1994 c 255 § 4; 1993 sp.s. c 17 § 3. Formerly RCW 75.25.092.]

Effective date—2011 c 339: See note following RCW 43.84.092.

Finding—Effective date—1999 c 243: See notes following RCW 77.32.050.

Finding—1993 sp.s. c 17: "The legislature finds that additional cost savings can be realized by simplifying the department of fisheries recreational licensing system. The legislature finds that significant benefits will accrue to recreational fishers from streamlining the department of fisheries recreational licensing system. The legislature finds recreational license fees and commercial landing taxes have not been increased in recent years. The legislature finds that reduction in important department of fisheries programs can be avoided by increasing license fees and commercial landing taxes. The legislature finds that it is in the best interest of the state to avoid significant reductions in current department of fisheries activities." [1993 sp.s. c 17 § 1.]

Additional notes found at www.leg.wa.gov

77.32.525 Hunting and fishing contests—Field trials for dogs—Rules—Limitation. The director shall administer rules adopted by the commission governing the time, place, and manner of holding hunting and fishing contests and competitive field trials involving live wildlife for hunting dogs. The department shall prohibit contests and field trials that are not in the best interests of wildlife. [1987 c 506 § 48; 1980 c 78 § 67. Formerly RCW 77.12.530.]

Legislative findings and intent—1987 c 506: See note following RCW 77.04.020.

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

Contests and field trials: RCW 77.32.540.

77.32.530 Hunting big game—Auction or raffle—Procedure. (1) The commission in consultation with the director may authorize hunting of big game animals and wild turkeys through auction. The department may conduct the auction for the hunt or contract with a nonprofit wildlife conservation organization to conduct the auction for the hunt.

(2) The commission in consultation with the director may authorize hunting of up to a total of thirty big game animals and wild turkeys per year through raffle. The department may conduct raffles or contract with a nonprofit wildlife conservation organization to conduct raffles for hunting these animals. In consultation with the gambling commission, the director may adopt rules for the implementation of raffles involving hunting.

(3) The director shall establish the procedures for the hunts, which shall require any participants to obtain any required license, permit, or tag. Representatives of the department may participate in the hunt upon the request of the commission to ensure that the animals to be killed are properly identified.

(4) After deducting the expenses of conducting an auction or raffle, any revenues retained by a nonprofit organization, as specified under contract with the department, shall be devoted solely for wildlife conservation, consistent with its qualification as a bona fide nonprofit organization for wildlife conservation.

(5) The department's share of revenues from auctions and raffles shall be deposited in the limited fish and wildlife account created in RCW 77.12.170(1). The revenues shall be used to improve game management and shall supplement, rather than replace, other funds budgeted for management of game species. The commission may solicit input from groups or individuals with special interest in and expertise on a species in determining how to use these revenues.

(6) A nonprofit wildlife conservation organization may petition the commission to authorize an auction or raffle for a special hunt for big game animals and wild turkeys. [2020 c

148 § 21; 2009 c 333 § 41; 1996 c 101 § 5. Formerly RCW 77.12.770.]

Intent—Effective date—2020 c 148: See notes following RCW 77.12.170.

Findings—1996 c 101: "The legislature finds that it is in the best interest of recreational hunters to provide them with the variety of hunting opportunities provided by auctions and raffles. Raffles provide an affordable opportunity for most hunters to participate in special hunts for big game animals and wild turkeys. The legislature also finds that wildlife management and recreation are not adequately funded and that such auctions and raffles can increase revenues to improve wildlife management and recreation." [1996 c 101 § 1.]

77.32.535 Private lands—Raffle authorization to hunt big game. If a private entity has a private lands wildlife management area agreement in effect with the department, the commission may authorize the private entity to conduct raffles for access to hunt for big game animals and wild turkeys to meet the conditions of the agreement. The private entity shall comply with all applicable rules adopted under RCW 77.32.530 for the implementation of raffles; however, raffle hunts conducted pursuant to this section shall not be counted toward the number of raffle hunts the commission may authorize under RCW 77.32.530. The director shall establish the procedures for the hunts, which shall require any participants to obtain any required license, permit, or tag. Representatives of the department may participate in the hunt upon the request of the commission to ensure that the animals to be killed are properly identified. [2001 c 253 § 52; 1996 c 101 § 6. Formerly RCW 77.12.780.]

Findings—1996 c 101: See note following RCW 77.32.530.

77.32.540 Hunting and fishing contests—Field trials for dogs—Permit—Rules. A person shall not promote, conduct, hold, or sponsor a contest for the hunting or fishing of wildlife or a competitive field trial involving live wildlife for hunting dogs without first obtaining a hunting or fishing contest permit. Contests and field trials shall be held in accordance with established rules. [1998 c 190 § 118; 1987 c 506 § 58; 1980 c 78 § 69; 1955 c 36 § 77.16.010. Prior: 1947 c 275 § 39; Rem. Supp. 1947 § 5992-49. Formerly RCW 77.16.010.]

Legislative findings and intent—1987 c 506: See note following RCW 77.04.020.

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

Contests and field trials: RCW 77.32.525.

77.32.545 Removal of trap—Identification of traps—Disclosure of identities. A property owner, lessee, or tenant may remove a trap placed on the owner's, lessee's, or tenant's posted or fenced property by a trapper.

Trappers shall attach to the chain of their traps or devices a legible metal tag with either the department identification number of the trapper or the name and address of the trapper in English letters not less than one-eighth inch in height.

When a property owner, lessee, or tenant presents a trapper identification number to the department for a trap found upon the property of the owner, lessee, or tenant and requests identification of the trapper, the department shall provide the requestor with the name and address of the trapper. Prior to disclosure of the trapper's name and address, the department

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shall obtain the name and address of the requesting individual in writing and after disclosing the trapper's name and address to the requesting individual, the requesting individual's name and address shall be disclosed in writing to the trapper whose name and address was disclosed. [1998 c 190 § 121; 1993 sp.s. c 2 § 75; 1988 c 36 § 51; 1987 c 372 § 1; 1980 c 78 § 85; 1955 c 36 § 77.16.170. Prior: 1947 c 275 § 56; Rem. Supp. 1947 § 5992-65. Formerly RCW 77.16.170.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

Additional notes found at www.leg.wa.gov

77.32.550 Group fishing permit. (1) A group fishing permit allows a group of individuals to fish, and harvest shellfish, without individual licenses or the payment of individual license fees. The department must also provide, without charge, any applicable catch record cards.

(2) The director must issue a group fishing permit on a seasonal basis to: A state-operated facility or state-licensed nonprofit facility or program for persons with physical or mental disabilities, hospital patients, seriously or terminally ill persons, persons who are dependent on the state because of emotional or physical developmental disabilities, or senior citizens who are in the care of the facility; or a state or local agency or nonprofit organization operating a program for at-risk youth. The permit is valid only for use during open season.

(3) The director may set conditions and issue a group fishing permit to groups working in partnership with and participating in department outdoor education programs. At the discretion of the director, a processing fee may be applied.

(4) The commission may adopt rules that provide the conditions under which a group fishing permit is issued. [2015 c 98 § 1; 2007 c 254 § 4; 2006 c 16 § 1; 2002 c 266 § 1.]

77.32.555 Surcharge to fund biotoxin testing and monitoring—Algal bloom program—Biotoxin account.

(1) In addition to the fees authorized in this chapter, the department shall include a surcharge to fund biotoxin testing and monitoring by the department of health of beaches used for recreational shellfishing, and to fund monitoring by the Olympic region harmful algal bloom program of the Olympic natural resources center at the University of Washington. The surcharge on recreational shellfish licenses cannot be increased more than one dollar and can only be increased when the surcharge for commercial shellfish licenses is increased. A surcharge of four dollars applies to resident and nonresident shellfish and seaweed licenses as authorized by RCW 77.32.520(3) (a) and (b); a surcharge of three dollars applies to resident and nonresident adult combination licenses as authorized by RCW 77.32.470(2)(a); a surcharge of three dollars applies to annual resident and nonresident razor clam licenses as authorized by RCW 77.32.520(4); and a surcharge of two dollars applies to the three-day razor clam license authorized by RCW 77.32.520(5). Amounts collected from these surcharges must be deposited in the biotoxin account created in subsection (3) of this section. The department may not use any amounts collected from these surcharges to pay for its administrative costs.

(2) Any moneys from surcharges remaining in the general fund—local account after the 2007-2009 biennium must

be transferred to the biotoxin account created in subsection (3) of this section and be credited to the appropriate institution. The department of health and the University of Washington shall, by December 1st of each year, provide a letter to the relevant legislative policy and fiscal committees on the status of expenditures. This letter shall include, but is not limited to, the annual appropriation amount, the amount not expended, account fund balance, and reasons for not spending the full annual appropriation.

(3) The biotoxin account is created in the state treasury to be administered by the department of health. All moneys received under subsection (1) of this section must be deposited in the account and used by the department of health and the University of Washington as required by subsection (1) of this section. Of the moneys deposited into the account, one hundred fifty thousand dollars per year must be made available to the University of Washington to implement subsection (1) of this section. Moneys in the account may be spent only after appropriation. [2015 c 254 § 1; 2009 c 577 § 1; 2005 c 416 § 1; 2004 c 248 § 2; 2003 c 263 § 2.]

Findings—2003 c 263: "The legislature finds that testing and monitoring of beaches used for recreational shellfishing is essential to ensure the health of recreational shellfishers. The legislature also finds that it is essential to have a stable and reliable source of funding for such biotoxin testing and monitoring. The legislature also finds that the cost of the resident and nonresident personal use shellfish and seaweed licenses is undervalued and not properly aligned with neighboring states and provinces." [2003 c 263 § 1.]

Additional notes found at www.leg.wa.gov

77.32.560 Watchable wildlife decals. (1) The department may sell watchable wildlife decals. Proceeds from the sale of the decal must be deposited into the limited fish and wildlife account created in RCW 77.12.170(1) and must be dedicated to the support of the department's watchable wildlife activities. The department may also use proceeds from the sale of the decal for marketing the decal and for marketing watchable wildlife activities in the state.

(2) The term "watchable wildlife activities" includes but is not limited to: Initiating partnerships with communities to jointly develop watchable wildlife projects, building infrastructure to serve wildlife viewers, assisting and training communities in conducting wildlife watching events, developing destination wildlife viewing corridors and trails, tours, maps, brochures, and travel aides, and offering grants to assist rural communities in identifying key wildlife attractions and ways to protect and promote them.

(3) The commission must adopt by rule the cost of the watchable wildlife decal. A person may, at their discretion, contribute more than the cost as set by the commission by rule for the watchable wildlife decal in order to support watchable wildlife activities. [2020 c 148 § 22; 2011 c 320 § 18; 2009 c 333 § 42; 2003 c 317 § 2.]

Intent—Effective date—2020 c 148: See notes following RCW 77.12.170.

Effective date—2011 c 320: See note following RCW 79A.80.005.

Findings—Intent—2011 c 320: See RCW 79A.80.005.

Findings—2003 c 317: "The legislature finds that healthy wildlife populations significantly contribute to the economic vitality of Washington's rural areas through increased opportunities for watchable wildlife and related tourism. Travel related to watchable wildlife is one of the fastest growing segments of the travel industry. Much of this travel occurs off-season, creating jobs and providing revenue to local businesses and governments during

otherwise slow periods. The watchable wildlife industry is particularly important to Washington's rural economies.

The legislature also finds that it is vital to support programs that enhance watchable wildlife activities and tourism, while also protecting the wildlife resources that attract the viewers. A revenue source must be created and directed to the watchable wildlife programs of the department of fish and wildlife to develop watchable wildlife opportunities in cooperation with other local, state, and federal agencies, and nongovernmental organizations." [2003 c 317 § 1.]

77.32.565 Hunting and fishing opportunities for a terminally ill person—Provision of a license, tag, permit, or stamp without a fee—Rule-making authority. (1) In order to facilitate hunting and fishing opportunities for a terminally ill person, the director may provide any licenses, tags, permits, stamps, and other fees without charge including transaction and dealer fees.

(2) The director may accept special permits or other special hunting opportunities, including raffle tags, auction tags, and multiple season opportunities from donors seeking to facilitate hunting opportunities for a terminally ill person. The director shall distribute these donations pursuant to rules adopted under subsection (4) of this section.

(3) The director may take other actions consistent with facilitating hunting and fishing opportunities for a terminally ill person. These actions may include, but are not limited to, entering into agreements with willing landowners pursuant to RCW 77.12.320.

(4) In addition to rules required under subsection (2) of this section, the commission may adopt rules as necessary to effectuate the purpose and policies of this section. [2008 c 10 § 1.]

Additional notes found at www.leg.wa.gov

77.32.570 Master hunter permit program—Fee. (1) In order to effectively manage wildlife in areas or at times when a higher proficiency and demonstrated skill level are needed for resource protection or public safety, the department establishes the master hunter permit program. The master hunter permit program emphasizes safe, ethical, responsible, and lawful hunting practices. Program goals include improving the public's perception of hunting and perpetuating the highest hunting standards.

(2) A master hunter permit is required to participate in controlled hunts to eliminate problem animals that damage property or threaten public safety. The commission may establish by rule the requirements an applicant must comply with when applying for or renewing a master hunter permit, including but not limited to a criminal background check. The director may establish an advisory group to assist the department with administering the master hunter [permit] program.

(3) The fee for an initial master hunter permit may not exceed fifty dollars, and the cost of renewing a master hunter permit may not exceed twenty-five dollars. Funds generated under this section must be deposited into the fish and wildlife enforcement reward account established in RCW 77.15.425, and the funds must be used exclusively to administer the master hunter [permit] program. [2009 c 333 § 15.]

77.32.575 Western Washington pheasant permit—Fee. (1) A western Washington pheasant permit is required to hunt for pheasant in western Washington.

(2) The permit is available as a season option, a youth full season option, or a three-day option. The fee for the permit is:

(a) For the resident full season option, seventy-five dollars;

(b) For the nonresident full season option, one hundred fifty dollars;

(c) For the youth full season option, thirty-five dollars;

(d) For the three-day option for a resident, thirty-five dollars and for a nonresident, seventy dollars. [2009 c 333 § 73.]

77.32.585 Release of wild beavers. (1) The department shall permit the release of wild beavers on public and private lands with agreement from the property owner.

(2) The department may limit the release of wild beavers to areas of the state where:

(a) There is a low probability of released beavers becoming a nuisance or causing damage;

(b) Conditions exist for released beavers to improve, maintain, or manage stream or riparian ecosystem functions; and

(c) There is evidence of historic endemic beaver populations.

(3) The department may condition the release of beaver to maximize the relocation's success and minimize risk. Factors that the department may condition include:

(a) Stream gradient;

(b) Sufficiency of the water supply;

(c) Stream geomorphology;

(d) Adequacy of a food source;

(e) Proper site elevation and valley width;

(f) Age of the beavers relocated;

(g) Times of year for capture and relocation;

(h) Requirements for the capture, handling, and transport of the live beavers;

(i) Minimum and maximum numbers of beavers that can be relocated in one area; and

(j) Requirements for the permit holder to initially provide supplemental food and lodge building materials.

(4) The department may require:

(a) Specific training for those involved with capture, handling, and release of beavers; and

(b) The notification of any potentially affected adjacent landowners before permitting the release of wild beavers.

(5) Nothing in this section creates any liability against the state or those releasing beavers nor authorizes any private right of action for any damages subsequently caused by beavers released pursuant to this section.

(6) For the purposes of this section, "beaver" means the American beaver (*Castor canadensis*).

(7) For the purposes of this section, beavers may only be released to carry out relocation: (a) Between two areas east of the crest of the Cascade mountains; or (b) between two areas west of the crest of the Cascade mountains. [2017 c 82 § 1; 2012 c 167 § 2.]

Finding—2012 c 167: "The legislature finds that beavers have historically played a significant role in maintaining the health of watersheds in the Pacific Northwest and act as key agents in riparian ecology. The live trapping and relocating of beavers has long been recognized as a beneficial wildlife management practice, and has been successfully utilized to restore and maintain stream ecosystems for over fifty years. The benefits of active beaver

populations include reduced stream sedimentation, stream temperature moderation, higher dissolved oxygen levels, overall improved water quality, increased natural water storage capabilities within watersheds, and reduced stream velocities. These benefits improve and create habitat for many other species, including endangered salmon, river otters, sandhill cranes, trumpeter swans, and other riparian and aquatic species. Relocating beavers into their historic habitat provides a natural mechanism for improving the environmental conditions in Washington's riparian ecosystems without having to resort to governmental regulation or expensive publicly funded engineering projects." [2012 c 167 § 1.]

77.32.590 Hunting and fishing license donations—Resident disabled veterans—Rule-making authority. (1)

In order to facilitate hunting and fishing opportunities for Washington state resident veterans who are eligible for reduced fishing and hunting license fees, based on a service-related disability, under RCW 77.32.480, the department may accept donations from the public so that resident disabled veterans, on a first-come, first-served basis, may elect to utilize a donation towards their purchase of hunting and fishing licenses.

(2) The director may take other actions consistent with facilitating hunting and fishing opportunities for disabled veterans. These actions may include, but are not limited to, entering into agreements with willing landowners pursuant to RCW 77.12.320.

(3) The department shall adopt rules to implement this section and to define the license products, to include the transaction and dealer fees, available for purchase using donated funds. [2018 c 90 § 1.]

Chapter 77.36 RCW WILDLIFE DAMAGE

Sections

77.36.010	Definitions.
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77.36.180	Wolf-livestock conflict account.
77.36.200	Wolf-livestock conflict—Staff resources in Ferry and Stevens counties.

77.36.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Claim" means an application to the department for compensation under this chapter.

(2) "Commercial crop" means a horticultural or agricultural product, including the growing or harvested product. For the purposes of this chapter all parts of horticultural trees shall be considered a commercial crop and shall be eligible for claims.

(3) "Compensation" means a cash payment, materials, or service.

(4) "Damage" means economic losses caused by wildlife interactions.

(5) "Immediate family member" means spouse, state registered domestic partner, brother, sister, grandparent, parent, child, or grandchild.

(6) "Livestock" means cattle, sheep, and horses.

(7) "Owner" means a person who has a legal right to commercial crops, livestock, or other property that was damaged during a wildlife interaction.

(8) "Wildlife interaction" means the negative interaction and the resultant damage between wildlife and commercial crops, livestock, or other property. [2013 c 329 § 1. Prior: 2009 c 521 § 184; 2009 c 333 § 54; 1996 c 54 § 2; (2001 c 274 § 2 expired June 30, 2004).]

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

***Reviser's note:** Section 53, chapter 333, Laws of 2009 was vetoed by the governor.

***Reviser's note:** Section 53, chapter 333, Laws of 2009 was vetoed by the governor.

Additional notes found at www.leg.wa.gov

77.36.030 Trapping or killing wildlife threatening human safety or causing property damage—Limitations and conditions—Rules. (1) Subject to limitations and conditions established by the commission, the owner, the owner's immediate family member, the owner's documented employee, or a tenant of real property may trap, consistent with RCW 77.15.194, or kill wildlife that is threatening human safety or causing property damage on that property, without the licenses required under RCW 77.32.010 or authorization from the director under RCW 77.12.240.

(2) The commission shall establish the limitations and conditions of this section by rule. The rules must include:

(a) Appropriate protection for threatened or endangered species;

(b) Instances when verbal or written permission is required to kill wildlife;

(c) Species that may be killed under this section; and

(d) Requirements for the disposal of wildlife trapped or killed under this section.

(3) In establishing the limitations and conditions of this section, the commission shall take into consideration the recommendations of the Washington state wolf conservation and management plan. [2009 c 333 § 61; 1996 c 54 § 4.]

Additional notes found at www.leg.wa.gov

77.36.070 Limit on total claims from the fish, wildlife, and conservation account per fiscal year. The department may pay no more than one hundred twenty thousand dollars per fiscal year from the fish, wildlife, and conservation account created in RCW 77.12.170(3) for claims and assessment costs for damage to commercial crops caused by wild deer or elk submitted under RCW 77.36.100. [2020 c 148 § 23; 2009 c 333 § 59; 1996 c 54 § 8.]

Intent—Effective date—2020 c 148: See notes following RCW 77.12.170.

Additional notes found at www.leg.wa.gov

77.36.080 Limit on total claims from general fund per fiscal year—Emergency exceptions. (1) Unless the legislature declares an emergency under this section, the department may pay no more than thirty thousand dollars per fiscal year from the general fund for claims and assessment costs for damage to commercial crops caused by wild deer or elk submitted under RCW 77.36.100.

(2)(a) The legislature may declare an emergency if weather, fire, or other natural events result in deer or elk causing excessive damage to commercial crops.

(b) After an emergency declaration, the department may pay as much as may be subsequently appropriated, in addition to the funds authorized under subsection (1) of this section, for claims and assessment costs under RCW 77.36.100. Such money shall be used to pay wildlife interaction claims only if the claim meets the conditions of RCW 77.36.100 and the department has expended all funds authorized under RCW 77.36.070 or subsection (1) of this section. [2009 c 333 § 60; 1996 c 54 § 9; (2001 c 274 § 3 expired June 30, 2004).]

Additional notes found at www.leg.wa.gov

77.36.100 Payment of claims for damage to commercial crops or livestock—Noncash compensation—Offer of materials or services to offset or prevent wildlife interactions—Appeal of decisions—Adoption of rules. (1)(a) Except as limited by RCW 77.36.070, 77.36.080, 77.36.170, and 77.36.180, the department shall offer to distribute money appropriated to pay claims to the owner of commercial crops for damage caused by wild deer or elk or to the owners of livestock that has been killed by bears, wolves, or cougars, or injured by bears, wolves, or cougars to such a degree that the market value of the livestock has been diminished. Payments for claims for damage to livestock are not subject to the limitations of RCW 77.36.070 and 77.36.080, but may not, except as provided in RCW 77.36.170 and 77.36.180, exceed the total amount specifically appropriated therefor.

(b) Owners of commercial crops or livestock are only eligible for a claim under this subsection if:

(i) The commercial crop owner satisfies the definition of "eligible farmer" in RCW 82.08.855;

(ii) The conditions of RCW 77.36.110 have been satisfied; and

(iii) The damage caused to the commercial crop or livestock satisfies the criteria for damage established by the commission under (c) of this subsection.

(c) The commission shall adopt and maintain by rule criteria that clarifies the damage to commercial crops and livestock qualifying for compensation under this subsection. An owner of a commercial crop or livestock must satisfy the criteria prior to receiving compensation under this subsection. The criteria for damage adopted under this subsection must include, but not be limited to, a required minimum economic loss to the owner of the commercial crop or livestock, which may not be set at a value of less than five hundred dollars.

(2)(a) Subject to the availability of nonstate funds, nonstate resources other than cash, or amounts appropriated for this specific purpose, the department may offer to provide compensation to offset wildlife interactions to a person who applies to the department for compensation for damage to property other than commercial crops or livestock that is the result of a mammalian or avian species of wildlife on a

case-specific basis if the conditions of RCW 77.36.110 have been satisfied and if the damage satisfies the criteria for damage established by the commission under (b) of this subsection.

(b) The commission shall adopt and maintain by rule criteria for damage to property other than a commercial crop or livestock that is damaged by wildlife and may be eligible for compensation under this subsection, including criteria for filing a claim for compensation under this subsection.

(3)(a) To prevent or offset wildlife interactions, the department may offer materials or services to a person who applies to the department for assistance in providing mitigating actions designed to reduce wildlife interactions if the actions are designed to address damage that satisfies the criteria for damage established by the commission under this section.

(b) The commission shall adopt and maintain by rule criteria for mitigating actions designed to address wildlife interactions that may be eligible for materials and services under this section, including criteria for submitting an application under this section.

(4) An owner who files a claim under this section may appeal the decision of the department pursuant to rules adopted by the commission if the claim:

(a) Is denied; or

(b) Is disputed by the owner and the owner disagrees with the amount of compensation determined by the department.

(5) The commission shall adopt rules setting limits and conditions for the department's expenditures on claims and assessments for commercial crops, livestock, other property, and mitigating actions. [2013 c 329 § 4; 2009 c 333 § 55.]

Additional notes found at www.leg.wa.gov

77.36.110 Eligibility for compensation under this chapter—Adoption of rules. (1) No owner may receive compensation for wildlife interactions under this chapter unless the owner has, as determined by the department, first:

(a) Utilized applicable legal and practicable self-help preventive measures available to prevent the damage, including the use of nonlethal methods and department-provided materials and services when available under RCW 77.36.100; and

(b) Exhausted all available compensation options available from nonprofit organizations that provide compensation to private property owners due to financial losses caused by wildlife interactions.

(2) In determining if the requirements of this section have been satisfied, the department may recognize and consider the following:

(a) Property losses may occur without future or anticipated knowledge of potential problems resulting in an owner being unable to take preemptive measures.

(b) Normal agricultural practices, animal husbandry practices, recognized standard management techniques, and other industry-recognized management practices may represent adequate preventative efforts.

(c) Under certain circumstances, as determined by the department, wildlife may not logistically or practicably be managed by nonlethal efforts.

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(d) Not all available legal preventative efforts are cost-effective for the owner to practicably employ.

(e) There are certain effective preventative control options not available due to federal or state restrictions.

(f) Under certain circumstances, as determined by the department, permitting public hunting may not be a practicable self-help method due to the size and nature of the property, the property's setting, or the ability of the landowner to accommodate public access.

(3) An owner is not eligible to receive compensation if the damages are covered by insurance.

(4) The commission shall adopt rules implementing this section, including requirements that owners document nonlethal preventive efforts undertaken and all permits issued by the department under RCW 77.12.240 and 77.12.150. [2009 c 333 § 56.]

Additional notes found at www.leg.wa.gov

77.36.120 Department's duties. The department shall establish:

(1) The form of affidavits or proof required to accompany all claims under this chapter;

(2) The process, time, and methods used to identify and assess damage, including the anticipated timeline for the initiation and conclusion of department action;

(3) How claims will be prioritized when available funds for reimbursement are limited;

(4) Timelines after the discovery of damage by which an owner must file a claim or notify the department;

(5) Protocols for an owner to follow if the owner wishes to undertake activities that would complicate the determination of damages, such as harvesting damaged crops;

(6) The process for determining damage assessments, including the role and selection of professional damage assessors and the responsibility for reimbursing third-party assessors for their services;

(7) Timelines for a claimant to accept, reject, or appeal a determination made by the department;

(8) The identification of instances when an owner would be ineligible for compensation;

(9) An appeals process for an owner eligible for compensation under RCW 77.36.100 who is denied a claim or feels the compensation is insufficient; and

(10) Other policies necessary for administering this chapter. [2009 c 333 § 57.]

Additional notes found at www.leg.wa.gov

77.36.130 Limit on cash compensation—Burden of proof. (1) Except as otherwise provided in this section and as limited by RCW 77.36.100, 77.36.070, 77.36.080, 77.36.170, and 77.36.180, the cash compensation portion of each claim by the department under this chapter is limited to the lesser of:

(a) The value of the damage to the property by wildlife, reduced by the amount of compensation provided to the claimant by any nonprofit organizations that provide compensation to private property owners due to financial losses caused by wildlife interactions. The value of killed or injured livestock may be no more than the market value of the lost livestock subject to the conditions and criteria established by rule of the commission; or

(b) Ten thousand dollars.

(2) The department may offer to pay a claim for an amount in excess of ten thousand dollars to the owners of commercial crops or livestock filing a claim under RCW 77.36.100 only if the outcome of an appeal filed by the claimant under RCW 77.36.100 determines a payment higher than ten thousand dollars.

(3) All payments of claims by the department under this chapter must be paid to the owner of the damaged property and may not be assigned to a third party.

(4) The burden of proving all property damage, including damage to commercial crops and livestock, belongs to the claimant. [2013 c 329 § 5; 2009 c 333 § 58.]

Additional notes found at www.leg.wa.gov

77.36.140 Chapter represents exclusive remedy. This chapter represents the exclusive remedy against the state for damage caused by wildlife interactions. [2009 c 333 § 62.]

Additional notes found at www.leg.wa.gov

77.36.160 Request for relocating beaver. (1) Whenever the department receives a request for relocating beaver, the department must inform the requesting party of locations, if available, of surplus beaver available for capture and relocation. The department may identify nuisance beaver or areas with thriving beaver populations as a source population for capturing and relocating beaver.

(2) The department shall post on the agency's web site quarterly reports of nuisance beaver activity, beaver trapping, and beaver relocations reported to the department. [2012 c 167 § 3.]

Finding—2012 c 167: See note following RCW 77.32.585.

77.36.170 Limit on amount paid for injury or loss of livestock caused by wolves—Exceptions. (1) The department may pay no more than fifty thousand dollars per fiscal year from the limited fish and wildlife account created in RCW 77.12.170(1) for claims and assessment costs for injury or loss of livestock caused by wolves submitted under RCW 77.36.100.

(2) Notwithstanding other provisions of this chapter, the department may also accept and expend money from other sources to address injury or loss of livestock or other property caused by wolves consistent with the requirements on that source of funding.

(3) If any wildlife account expenditures authorized under subsection (1) of this section are unspent as of June 30th of a fiscal year, the state treasurer shall transfer the unspent amount to the wolf-livestock conflict account created in RCW 77.36.180. [2021 c 14 § 1; 2020 c 148 § 24; 2014 c 221 § 922; 2013 c 329 § 2.]

Effective date—2021 c 14: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2021." [2021 c 14 § 2.]

Intent—Effective date—2020 c 148: See notes following RCW 77.12.170.

Effective date—2014 c 221: See note following RCW 28A.710.260.

77.36.180 Wolf-livestock conflict account. (1) The wolf-livestock conflict account is created in the custody of

the state treasurer. Any transfers under RCW 77.36.170 must be deposited in the account. The department may also deposit into the account any grants, gifts, or donations to the state for the purposes of providing compensation for injury or loss of livestock caused by wolves. Consistent with this chapter, expenditures from the account may be used only for mitigation, assessment, and payments for injury or loss of livestock caused by wolves. Only the director or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(2)(a) The department must maintain a list of claims submitted under RCW 77.36.100, organized chronologically by the date wolf predation is confirmed, for injury or loss of livestock caused by wolves that have been approved for payment but not yet been fully paid by the department. As funding becomes available to the department under this section, RCW 77.36.170, or any other source, the department must pay claims in the chronological order they appear on the list. The department must maintain, and is authorized to pay, claims that appear on the list due to injury or loss that occurred in a previous fiscal biennium.

(b) The payment of a claim included on the list maintained by the department under this section is conditional on the availability of specific funding for this purpose and is not a guarantee of reimbursement. [2013 c 329 § 3.]

77.36.200 Wolf-livestock conflict—Staff resources in Ferry and Stevens counties. The department shall maintain sufficient staff resources in Ferry and Stevens counties for response to wolf-livestock conflict on an ongoing basis and for coordination with livestock producers on the continued implementation of proactive nonlethal deterrents. [2019 c 450 § 3.]

Intent—Finding—2019 c 450: See note following RCW 77.12.395.

Chapter 77.44 RCW

WARM WATER GAME FISH ENHANCEMENT PROGRAM

Sections

77.44.005	Public interest declaration.
77.44.007	Definitions.
77.44.010	Warm water game fish enhancement program—Created.
77.44.030	Freshwater, combination fishing license—Disposition of fee.
77.44.040	Program goals.
77.44.050	Warm water game fish account—Created—Use of moneys.
77.44.060	Specifications—Purchases from aquatic farmers.
77.44.070	Purchases from aquatic farmers for stocking purposes.

77.44.005 Public interest declaration. The legislature declares that the public and private propagation, production, protection, and enhancement of fish is in the public interest. [1991 c 253 § 1. Formerly RCW 77.18.005.]

77.44.007 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Contract" means an agreement setting at a minimum, price, quantity of fish to be delivered, time of delivery, and fish health requirements.

(2) "Fish health requirements" means those site specific fish health and genetic requirements actually used by the department of fish and wildlife in fish stocking.

(3) "Aquatic farmer" means a private sector person who commercially farms and manages private sector cultured aquatic products on the person's own land or on land in which the person has a present right of possession.

(4) "Warm water game fish" includes the following species: Bass, channel catfish, walleye, crappie, and other species as defined by the department. [2000 c 107 § 262; 1993 sp.s. c 2 § 76; 1991 c 253 § 2. Formerly RCW 77.18.010.]

Additional notes found at www.leg.wa.gov

77.44.010 Warm water game fish enhancement program—Created. A warm water game fish enhancement program is created in the department. The enhancement program shall be designed to increase the opportunities to fish for and catch warm water game fish including: Largemouth black bass, smallmouth black bass, channel catfish, black crappie, white crappie, walleye, and tiger musky. The program shall be designed to use a practical applied approach to increasing warm water fishing. The department shall use the funds available efficiently to assure the greatest increase in the fishing for warm water fish at the lowest cost. This approach shall involve the minimization of overhead and administrative costs and the maximization of productive in-the-field activities. [1998 c 191 § 39; 1996 c 222 § 1.]

Additional notes found at www.leg.wa.gov

77.44.030 Freshwater, combination fishing license—Disposition of fee. (1) As provided in RCW 77.32.440, a portion of each freshwater and combination fishing license fee shall be deposited into the warm water game fish account.

(2) The department shall use the most cost-effective format in designing and administering the warm water game fish surcharge [account].

(3) A warm water game fish account shall be used for enhancement of largemouth bass, smallmouth bass, walleye, black crappie, white crappie, channel catfish, and tiger musky. [1998 c 191 § 29; 1996 c 222 § 3.]

Additional notes found at www.leg.wa.gov

77.44.040 Program goals. The goals of the warm water game fish enhancement program are to improve the fishing for warm water game fish using cost-effective management. Development of new ponds and lakes shall be an important and integral part of the program. The department shall work with the department of natural resources to coordinate the reclamation of surface mines and the development of warm water game fish ponds. Improvement of warm water fishing shall be coordinated with the protection and conservation of cold water fish populations. This shall be accomplished by carefully designing the warm water projects to have minimal adverse effects upon the cold water fish populations. New pond and lake development should have beneficial effects upon wildlife due to the increase in lacustrine and wetland habitat that will accompany the improvement of warm water fish habitat. The department shall not develop projects that will increase the populations of undesirable or deleterious fish species such as carp, squawfish, walking catfish, and others.

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Fish culture programs shall be used in conditions where they will prove to be cost-effective, and may include the purchase of warm water fish from aquatic farmers defined in RCW 15.85.020. Consideration should be made for development of urban area enhancement of fishing opportunity for put-and-take species, such as channel catfish, that are amenable to production by low-cost fish culture methods. Fish culture shall also be used for stocking of high value species, such as walleye, smallmouth bass, and tiger musky. Introduction of special genetic strains that show high potential for recreational fishing improvement, including Florida strain largemouth bass and striped bass, shall be considered.

Transplantation and introduction of exotic warm water fish shall be carefully reviewed to assure that adverse effects to native fish and wildlife populations do not occur. This review shall include an analysis of consequences from disease and parasite introduction.

Population management through the use of fish toxicants, including rotenone or derris root, shall be an integral part of the warm water game fish enhancement program. However, any use of fish toxicants shall be subject to a thorough review to prevent adverse effects to cold water fish, desirable warm water fish, and other biota. Eradication of deleterious fish species shall be a goal of the program.

Habitat improvement shall be a major aspect of the warm water game fish enhancement program. Habitat improvement opportunities shall be defined with scientific investigations, field surveys, and by using the extensive experience of other state management entities. Installation of cover, structure, water flow control structures, screens, spawning substrate, vegetation control, and other management techniques shall be fully used. The department shall work to gain access to privately owned waters that can be developed with habitat improvements to improve the warm water resource for public fishing.

The department shall use the resources of cooperative groups to assist in the planning and implementation of the warm water game fish enhancement program. In the development of the program the department shall actively involve the organized fishing clubs that primarily fish for warm water fish. The warm water fish enhancement program shall be cooperative between the department and private landowners; private landowners shall not be required to alter the uses of their private property to fulfill the purposes of the warm water fish enhancement program. The director shall not impose restrictions on the use of private property, or take private property, for the purpose of the warm water fish enhancement program. [1996 c 222 § 4.]

Additional notes found at www.leg.wa.gov

77.44.050 Warm water game fish account—Created—Use of moneys. The warm water game fish account is created in the state treasury. Moneys in the account are subject to legislative appropriation and shall be used for the purpose of funding the warm water game fish enhancement program, including the development of warm water pond and lake habitat, culture of warm water game fish, improvement of warm water fish habitat, management of warm water fish populations, and other practical activities that will improve the fishing for warm water fish. Funds for warm water game fish as provided in RCW 77.32.440 shall not serve as replace-

ment funding for department-operated warm water fish projects existing on December 31, 1994. [2020 c 148 § 25; 2009 c 333 § 43; 1999 c 235 § 1; 1996 c 222 § 5.]

Intent—Effective date—2020 c 148: See notes following RCW 77.12.170.

Additional notes found at www.leg.wa.gov

77.44.060 Specifications—Purchases from aquatic farmers. If the department requires, pursuant to its authority relative to environmental permits or licenses, that resident hatchery game fish be stocked by the permittee or licensee for mitigation of environmental damage, the department shall specify the pounds or numbers, species, stock, and/or race of resident game fish that are to be provided. The department shall offer the permittee or licensee the option of purchasing under contract from aquatic farmers in Washington, those game fish, unless the fish specified by the department are not available from Washington growers. [1991 c 253 § 3. Formerly RCW 77.18.020.]

77.44.070 Purchases from aquatic farmers for stocking purposes. Any agency of state or federal government, political subdivision of the state, private or public utility company, corporation, or sports group, or any purchaser of fish under RCW 77.44.060 may purchase resident game fish from an aquatic farmer for stocking purposes if permit requirements of this title and the department have been met. [2001 c 253 § 53; 1991 c 253 § 4. Formerly RCW 77.18.030.]

Chapter 77.50 RCW

LIMITATIONS ON CERTAIN COMMERCIAL FISHERIES

Sections

77.50.010	Limitations on commercial fishing for salmon in Puget Sound waters.
77.50.020	Limitations on commercial fishing for chinook or coho salmon in Pacific Ocean and Straits of Juan de Fuca.
77.50.030	Salmon fishing gear.
77.50.040	Commercial net fishing for salmon in tributaries of Columbia river—Boundaries defined.
77.50.050	Reef net salmon fishing gear—Reef net areas specified.
77.50.060	Unauthorized fishing vessels entering state waters.
77.50.070	Limitation on salmon fishing gear in Pacific Ocean.
77.50.080	Possession or transportation in Pacific Ocean of salmon taken by other than troll lines or angling gear.
77.50.090	Bottom trawling not authorized—Areas specified.
77.50.100	Hood Canal shrimp—Limitation on number of shrimp pots.
77.50.110	Commercial salmon fishing—Unauthorized gear.
77.50.120	Maintaining consistent salmon harvest levels.

77.50.010 Limitations on commercial fishing for salmon in Puget Sound waters. (1) The commission may authorize commercial fishing for sockeye salmon within the waters described in subsection (2) of this section only during the period June 10th to July 25th and for other salmon only from the second Monday of September through November 30th, except during the hours between 4:00 p.m. of Friday and 4:00 p.m. of the following Sunday.

(2) All waters east and south of a line commencing at a concrete monument on Angeles Point in Clallam county near the mouth of the Elwha River on which is inscribed "Angeles Point Monument" (latitude 48° 9' 3" north, longitude 123° 33' 01" west of Greenwich Meridian); thence running east on a line 81° 30' true across the flashlight and bell buoy off Par-

tridge Point and thence continued to longitude 122° 40' west; thence north to the southerly shore of Sinclair Island; thence along the southerly shore of the island to the most easterly point of the island; thence 46° true to Carter Point, the most southerly point of Lummi Island; thence northwesterly along the westerly shore line of Lummi Island to where the shore line intersects line of longitude 122° 40' west; thence north to the mainland, including: The southerly portion of Hale Passage, Bellingham Bay, Padilla Bay, Fidalgo Bay, Guemes Channel, Skagit Bay, Similk Bay, Saratoga Passage, Holmes Harbor, Possession Sound, Admiralty Inlet, Hood Canal, Puget Sound, and their inlets, passages, waters, waterways, and tributaries.

(3) The commission may authorize commercial fishing for salmon with gill net, purse seine, and other lawful gear prior to the second Monday in September within the waters of Hale Passage, Bellingham Bay, Samish Bay, Padilla Bay, Fidalgo Bay, Guemes Channel, Skagit Bay, and Similk Bay, to wit: Those waters northerly and easterly of a line commencing at Stanwood, thence along the south shore of Skagit Bay to Rocky Point on Camano Island; thence northerly to Polnell Point on Whidbey Island.

(4) Whenever the commission determines that a stock or run of salmon cannot be harvested in the usual manner, and that the stock or run of salmon may be in danger of being wasted and surplus to natural or artificial spawning requirements, the commission may authorize units of gill net and purse seine gear in any number or equivalents, by time and area, to fully utilize the harvestable portions of these salmon runs for the economic well being of the citizens of this state. Gill net and purse seine gear other than emergency and test gear authorized by the director shall not be used in Lake Washington.

(5) The commission may authorize commercial fishing for pink salmon in each odd-numbered year from August 1st through September 1st in the waters lying inside of a line commencing at the most easterly point of Dungeness Spit and thence projected to Point Partridge on Whidbey Island and a line commencing at Olele Point and thence projected easterly to Bush Point on Whidbey Island. [2002 c 311 § 2; 1998 c 190 § 75; 1995 1st sp.s. c 2 § 25 (Referendum Bill No. 45, approved November 7, 1995); 1983 1st ex.s. c 46 § 46; 1973 1st ex.s. c 220 § 2; 1971 ex.s. c 283 § 13; 1955 c 12 § 75.12.010. Prior: 1949 c 112 § 28; Rem. Supp. 1949 § 5780-301. Formerly RCW 75.12.010.]

Findings—2002 c 311: "The legislature finds that the economic well-being and stability of the fishing industry and the conservation of the food fish resources of the state of Washington are best served by providing managers with all available tools to stabilize and distribute the commercial harvest of targeted Puget Sound salmon stocks. In recent years, segments of the industry in cooperation with the department of fish and wildlife have funded studies examining modification of harvest practices and fishing gear, particularly purse seine gear, to minimize or avoid impacts on nontargeted Puget Sound salmon stocks.

The legislature finds that the new Pacific salmon treaty agreement of 1999 will drastically reduce the commercial harvest of Fraser river sockeye salmon while likely providing increased harvest opportunities in areas of Puget Sound where only gill net gear is now authorized. This exclusive limitation is contrary to the long-term needs of the fishing industry and inconsistent with the legislature's intent to stabilize harvest levels while selectively targeting healthy salmon stocks." [2002 c 311 § 1.]

Legislative declaration: "The preservation of the fishing industry and food fish and shellfish resources of the state of Washington is vital to the

state's economy, and effective measures and remedies are necessary to prevent the depletion of these resources." [1973 1st ex.s. c 220 § 1.]

Additional notes found at www.leg.wa.gov

77.50.020 Limitations on commercial fishing for chinook or coho salmon in Pacific Ocean and Straits of Juan de Fuca. (1) The commission may authorize commercial fishing for coho salmon in the Pacific Ocean and the Straits of Juan de Fuca only from June 16th through October 31st.

(2) The commission may authorize commercial fishing for chinook salmon in the Pacific Ocean and the Straits of Juan de Fuca only from March 15th through October 31st. [1998 c 190 § 76; 1995 1st sp.s. c 2 § 26 (Referendum Bill No. 45, approved November 7, 1995); 1983 1st ex.s. c 46 § 48; 1955 c 12 § 75.18.020. Prior: 1953 c 147 § 3. Formerly RCW 75.12.015, 75.18.020.]

Additional notes found at www.leg.wa.gov

77.50.030 Salmon fishing gear. (1) A person shall not use, operate, or maintain a gill net which exceeds one thousand five hundred feet in length or a drag seine in the waters of the Columbia river for catching salmon.

(2) A person shall not construct, install, use, operate, or maintain within state waters a pound net, round haul net, lampara net, fish trap, fish wheel, scow fish wheel, set net, weir, or fixed appliance for catching salmon or steelhead except under the authority of a trial or experimental fishery permit, when an emerging commercial fishery has been designated allowing use of one or more of these gear types. The director must consult with the commercial fishing interests that would be affected by the trial or experimental fishery permit. The director may authorize the use of this gear for scientific investigations.

(3) The department, in coordination with the Oregon department of fish and wildlife, shall adopt rules to regulate the use of monofilament in gill net webbing on the Columbia river. [2001 c 163 § 2; 1998 c 190 § 77; 1993 sp.s. c 2 § 27; 1985 c 147 § 1; 1983 1st ex.s. c 46 § 52; 1955 c 12 § 75.12.040. Prior: 1949 c 112 § 29; Rem. Supp. 1949 § 5780-303. Formerly RCW 75.12.040.]

Additional notes found at www.leg.wa.gov

77.50.040 Commercial net fishing for salmon in tributaries of Columbia river—Boundaries defined. (1) The commission shall adopt rules defining geographical boundaries of the following Columbia river tributaries and sloughs:

- (a) Washougal river;
- (b) Camas slough;
- (c) Lewis river;
- (d) Kalama river;
- (e) Cowlitz river;
- (f) Elokomin river;
- (g) Elokomin sloughs;
- (h) Skamokawa sloughs;
- (i) Grays river;
- (j) Deep river;
- (k) Grays bay.

(2) The commission may authorize commercial net fishing for salmon in the tributaries and sloughs from September 1st to November 30th only, if the time, areas, and level of effort are regulated in order to maximize the recreational fish-

ing opportunity while minimizing excess returns of fish to hatcheries. The commission shall not authorize commercial net fishing if a significant catch of steelhead would occur. [1998 c 190 § 78; 1984 c 80 § 5; 1983 c 245 § 1. Formerly RCW 75.12.132.]

77.50.050 Reef net salmon fishing gear—Reef net areas specified. The commission shall not authorize use of reef net fishing gear except in the reef net areas described in this section.

(1) Point Roberts reef net fishing area includes those waters within 250 feet on each side of a line projected 129° true from a point at longitude 123° 01' 15" W. latitude 48° 58' 38" N. to a point one mile distant, as such description is shown upon the United States Coast and Geodetic Survey map numbered 6300, published September, 1941, in Washington, D.C., eleventh edition.

(2) Cherry Point reef net fishing area includes those waters inland and inside the 10-fathom line between lines projected 205° true from points on the mainland at longitude 122° 44' 54" latitude 48° 51' 48" and longitude 122° 44' 18" latitude 48° 51' 33", a [as] such descriptions are shown upon the United States Coast and Geodetic Survey map numbered 6380, published March, 1947, in Washington, D.C., eighth edition.

(3) Lummi Island reef net fishing area includes those waters inland and inside a line projected from Village Point 208° true to a point 900 yards distant, thence 129° true to the point of intersection with a line projected 259° true from the shore of Lummi Island 122° 40' 42" latitude 48° 41' 32", as such descriptions are shown upon the United States Coast and Geodetic Survey map numbered 6380, published March, 1947, in Washington, D.C., eighth edition, revised 11-25-57, save and except that there shall be excluded therefrom all waters lying inside of a line projected 259° true from a point at 122° 40' 42" latitude 48° 41' 32" to a point 300 yards distant from high tide, thence in a northerly direction to the United States Coast and Geodetic Survey reference mark number 2, 1941-1950, located on that point on Lummi Island known as Lovers Point, as such descriptions are shown upon the United States Coast and Geodetic Survey map number 6380 as aforesaid. The term "Village Point" as used herein shall be construed to mean a point of location on Village Point, Lummi Island, at the mean high tide line on a true bearing of 43° 53' a distance of 457 feet to the center of the chimney of a wood frame house on the east side of the county road. Said chimney and house being described as Village Point Chimney on page 612 of the United States Coast and Geodetic Survey list of geographic positions No. G-5455, Rosario Strait.

(4) Sinclair Island reef net fishing area includes those waters inland and inside a line projected from the northern point of Sinclair Island to Boulder reef, thence 200° true to the northwesterly point of Sinclair Island, as such descriptions are shown upon the United States Coast and Geodetic Survey map numbered 6380, published March, 1947, in Washington, D.C., eighth edition.

(5) Flat Point reef net fishing area includes those waters within a radius of 175 feet of a point off Lopez Island located at longitude 122° 55' 24" latitude 48° 32' 33", as such description is shown upon the United States Coast and Geodetic Sur-

vey map numbered 6380, published March, 1947, in Washington, D.C., eighth edition.

(6) Lopez Island reef net fishing area includes those waters within 400 yards of shore between lines projected true west from points on the shore of Lopez Island at longitude 122° 55' 04" latitude 48° 31' 59" and longitude 122° 55' 54" latitude 48° 30' 55", as such descriptions are shown upon the United States Coast and Geodetic Survey map numbered 6380, published March, 1947, in Washington, D.C., eighth edition.

(7) Iceberg Point reef net fishing area includes those waters inland and inside a line projected from Davis Point on Lopez Island to the west point of Long Island, thence to the southern point of Hall Island, thence to the eastern point at the entrance to Jones Bay, and thence to the southern point at the entrance to Mackaye Harbor on Lopez Island; and those waters inland and inside a line projected 320° from Iceberg Point light on Lopez Island, a distance of 400 feet, thence easterly to the point on Lopez Island at longitude 122° 53' 00" latitude 48° 25' 39", as such descriptions are shown upon the United States Coast and Geodetic Survey map numbered 6380, published March, 1947, in Washington, D.C., eighth edition.

(8) Aleck Bay reef net fishing area includes those waters inland and inside a line projected from the southwestern point at the entrance to Aleck Bay on Lopez Island at longitude 122° 51' 11" latitude 48° 25' 14" southeasterly 800 yards to the submerged rock shown on U.S.G.S. map number 6380, thence northerly to the cove on Lopez Island at longitude 122° 50' 49" latitude 48° 25' 42", as such descriptions are shown upon the United States Coast and Geodetic Survey map numbered 6380, published March, 1947, in Washington, D.C., eighth edition.

(9) Shaw Island reef net fishing area number 1 includes those waters within 300 yards of shore between lines projected true south from points on Shaw Island at longitude 122° 56' 14" latitude 48° 33' 28" and longitude 122° 57' 29" latitude 48° 32' 58", as such descriptions are shown upon the United States Coast and Geodetic Survey map numbered 6380, published March, 1947, in Washington, D.C., eighth edition.

(10) Shaw Island reef net fishing area number 2 includes those waters inland and inside a line projected from Point George on Shaw Island to the westerly point of Neck Point on Shaw Island, as such description is shown upon the United States Coast and Geodetic Survey map numbered 6380, published March, 1947, in Washington, D.C., eighth edition.

(11) Stuart Island reef net fishing area number 1 includes those waters within 600 feet of the shore of Stuart Island between lines projected true east from points at longitude 123° 10' 47" latitude 48° 39' 47" and longitude 123° 10' 47" latitude 48° 39' 33", as such descriptions are shown upon the United States Coast and Geodetic Survey map numbered 6380, published March, 1947, in Washington, D.C., eighth edition.

(12) Stuart Island reef net fishing area number 2 includes those waters within 250 feet of Gossip Island, also known as Happy Island, as such description is shown upon the United States Coast and Geodetic Survey map numbered 6380, published March, 1947, in Washington, D.C., eighth edition.

(13) Johns Island reef net fishing area includes those waters inland and inside a line projected from the eastern point of Johns Island to the northwestern point of Little Cactus Island, thence northwesterly to a point on Johns Island at longitude 123° 09' 24" latitude 48° 39' 59", as such descriptions are shown upon the United States Coast and Geodetic Survey map numbered 6380, published March, 1947, in Washington, D.C., eighth edition.

(14) Battleship Island reef net fishing area includes those waters lying within 350 feet of Battleship Island, as such description is shown upon the United States Coast and Geodetic Survey map numbered 6380, published March, 1947, in Washington, D.C., eighth edition.

(15) Open Bay reef net fishing area includes those waters lying within 150 feet of shore between lines projected true east from a point on Henry Island at longitude 123° 11' 34 1/2" latitude 48° 35' 27 1/2" at a point 250 feet south, as such descriptions are shown upon the United States Coast and Geodetic Survey map numbered 6380, published March, 1947, in Washington, D.C., eighth edition.

(16) Mitchell Reef net fishing area includes those waters within a line beginning at the rock shown on U.S.G.S. map number 6380 at longitude 123° 10' 56" latitude 48° 34' 49 1/2", and projected 50 feet northwesterly, thence southwest-erly 250 feet, thence southeasterly 300 feet, thence northeast-erly 250 feet, thence to the point of beginning, as such descriptions are shown upon the United States Coast and Geodetic Survey map numbered 6380, published March, 1947, in Washington, D.C., eighth edition.

(17) Smugglers Cove reef fishing area includes those waters within 200 feet of shore between lines projected true west from points on the shore of San Juan Island at longitude 123° 10' 29" latitude 48° 33' 50" and longitude 123° 10' 31" latitude 48° 33' 45", as such descriptions are shown upon the United States Coast and Geodetic Survey map numbered 6380, published March, 1947, in Washington, D.C., eighth edition.

(18) Andrews Bay reef net fishing area includes those waters lying within 300 feet of the shore of San Juan Island between a line projected true south from a point at the northern entrance of Andrews Bay at longitude 123° 09' 53 1/2" latitude 48° 33' 00" and the cable crossing sign in Andrews Bay, at longitude 123° 09' 45" latitude 48° 33' 04", as such descriptions are shown upon the United States Coast and Geodetic Survey map numbered 6380, published March, 1947, in Washington, D.C., eighth edition.

(19) Orcas Island reef net fishing area includes those waters inland and inside a line projected true west a distance of 1,000 yards from the shore of Orcas Island at longitude 122° 57' 40" latitude 48° 41' 06" thence northeasterly to a point 500 feet true west of Point Doughty, then true east to Point Doughty, as such descriptions are shown upon the United States Coast and Geodetic Survey map numbered 6380, published March, 1947, in Washington, D.C., eighth edition. [1998 c 190 § 79; 1983 1st ex.s. c 46 § 59; 1965 c 64 § 1; 1961 c 236 § 1; 1959 c 309 § 1; 1955 c 276 § 2. Formerly RCW 75.12.140.]

77.50.060 Unauthorized fishing vessels entering state waters. In order to protect the welfare of the citizens of the state of Washington by protecting the natural resources of the

state from illegal fishing in state waters, commercial fishing vessels which are not authorized by law to fish for salmon in Washington state waters cannot enter Washington state waters unless all salmon fishing gear is stowed below deck or placed in a position so that it is not readily available for fishing. [1987 c 262 § 1. Formerly RCW 75.12.155.]

77.50.070 Limitation on salmon fishing gear in Pacific Ocean. (1) Except as provided in subsection (2) of this section, the commission shall not authorize gear other than troll gear or angling gear for taking salmon within the offshore waters or the waters of the Pacific Ocean over which the state has jurisdiction lying west of the following line: Commencing at the point of intersection of the international boundary line in the Strait of Juan de Fuca and a line drawn between the lighthouse on Tatoosh Island in Clallam County and Bonilla Point on Vancouver Island; thence southerly to the lighthouse on Tatoosh Island; thence southerly to the most westerly point of Cape Flattery; thence southerly along the state shoreline of the Pacific Ocean, crossing any river mouths at their most westerly points of land, to Point Brown at the entrance to Grays Harbor; thence southerly to Point Chehalis Light on Point Chehalis; thence southerly from Point Chehalis along the state shoreline of the Pacific Ocean to the Cape Shoalwater tower at the entrance to Willapa Bay; thence southerly to Leadbetter Point; thence southerly along the state shoreline of the Pacific Ocean to the inshore end of the North jetty at the entrance to the Columbia River; thence southerly to the knuckle of the South jetty at the entrance to said river.

(2) The commission may authorize the use of nets for taking salmon in the waters described in subsection (1) of this section for scientific investigations. [1998 c 190 § 80; 1993 c 20 § 2; 1983 1st ex.s. c 46 § 60; 1957 c 108 § 3. Formerly RCW 75.12.210.]

Purpose—1993 c 20: "The purpose of this act is to correct references to a geographical landmark on Cape Shoalwater that no longer exists. Cape Shoalwater Light has been removed and a new tower has been constructed four hundred yards to the west. It is not intended that this act make any substantive change in the boundaries of the areas described in RCW 75.12.210 and 75.28.012 beyond the minor adjustment necessitated by the replacement of the landmark." [1993 c 20 § 1.]

Additional notes found at www.leg.wa.gov

77.50.080 Possession or transportation in Pacific Ocean of salmon taken by other than troll lines or angling gear. Within the waters described in RCW 77.50.070, a person shall not transport or possess salmon on board a vessel carrying fishing gear of a type other than troll lines or angling gear, unless accompanied by a certificate issued by a state or country showing that the salmon have been lawfully taken within the territorial waters of the state or country. [2000 c 107 § 13; 1998 c 190 § 81; 1983 1st ex.s. c 46 § 61; 1963 c 234 § 2; 1957 c 108 § 5. Formerly RCW 75.12.230.]

Additional notes found at www.leg.wa.gov

77.50.090 Bottom trawling not authorized—Areas specified. The commission shall not authorize commercial bottom trawling for food fish and shellfish in all areas of Hood Canal south of a line projected from Tala Point to Foulweather Bluff and in Puget Sound south of a line projected from Foulweather Bluff to Double Bluff and including all

marine waters east of Whidbey Island and Camano Island. [1998 c 190 § 82; 1989 c 172 § 1. Formerly RCW 75.12.390.]

77.50.100 Hood Canal shrimp—Limitation on number of shrimp pots. The commission shall not authorize any commercial fisher to use more than fifty shrimp pots while commercially fishing for shrimp in that portion of Hood Canal lying south of the Hood Canal floating bridge. [1998 c 190 § 83; 1993 c 340 § 50; 1989 c 316 § 9; 1983 1st ex.s. c 31 § 2. Formerly RCW 75.12.440, 75.28.134.]

Finding, intent—Captions not law—Effective date—Severability—1993 c 340: See notes following RCW 77.65.010.

Additional notes found at www.leg.wa.gov

77.50.110 Commercial salmon fishing—Unauthorized gear. The commission shall not authorize angling gear or other personal use gear for commercial salmon fishing. [1998 c 190 § 84; 1996 c 267 § 24; 1983 1st ex.s. c 46 § 69; 1969 ex.s. c 23 § 1. Formerly RCW 75.12.650.]

Intent—Effective date—1996 c 267: See notes following RCW 77.12.177.

Additional notes found at www.leg.wa.gov

77.50.120 Maintaining consistent salmon harvest levels. It is the intent of the legislature to ensure that a sustainable level of salmon is made available for harvest for commercial fishers in the state. Maintaining consistent harvest levels has become increasingly difficult with the listing of salmonid species under the federal endangered species act. Without a stable level of harvest, fishers cannot develop niche markets that maximize the economic value of the harvest. New tools and approaches are needed by fish managers to bring increased stability to the fishing industry.

In the short term, it is the legislature's intent to provide managers with tools to assure that commercial harvest of targeted stocks can continue and expand under the constraints of the federal endangered species act. There are experimental types of commercial fishing gear that could allow fishers to stabilize harvest levels by selectively targeting healthy salmon stocks.

For the longer term, the department of fish and wildlife shall proceed with changes to the operation of certain hatcheries in order to stabilize harvest levels by allowing naturally spawning and hatchery origin fish to be managed as a single run. Scientific information from such hatcheries would guide the department's approach to reducing the need to mass mark hatchery origin salmon where appropriate. [2001 c 163 § 1.]

Chapter 77.55 RCW

CONSTRUCTION PROJECTS IN STATE WATERS

Sections

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77.55.011 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Bed" means the land below the ordinary high water lines of state waters. This definition does not include irrigation ditches, canals, stormwater runoff devices, or other artificial watercourses except where they exist in a natural watercourse that has been altered artificially.

(2) "Board" means the pollution control hearings board created in chapter 43.21B RCW.

(3) "Commission" means the state fish and wildlife commission.

(4) "Date of receipt" has the same meaning as defined in RCW 43.21B.001.

(5) "Department" means the department of fish and wildlife.

(6) "Director" means the director of the department of fish and wildlife.

(7) "Emergency" means an immediate threat to life, the public, property, or of environmental degradation.

(8) "Emergency permit" means a verbal hydraulic project approval or the written follow-up to the verbal approval issued to a person under RCW 77.55.021(12).

(9) "Expedited permit" means a hydraulic project approval issued to a person under RCW 77.55.021 (14) and (16).

(10) "Forest practices hydraulic project" means a hydraulic project that requires a forest practices application or notification under chapter 76.09 RCW.

(11) "Hydraulic project" means the construction or performance of work that will use, divert, obstruct, or change the natural flow or bed of any of the salt or fresh waters of the state.

(12) "Imminent danger" means a threat by weather, water flow, or other natural conditions that is likely to occur within sixty days of a request for a permit application.

(13) "Marina" means a public or private facility providing boat moorage space, fuel, or commercial services. Commercial services include but are not limited to overnight or live-aboard boating accommodations.

(14) "Marine terminal" means a public or private commercial wharf located in the navigable water of the state and used, or intended to be used, as a port or facility for the storing, handling, transferring, or transporting of goods to and from vessels.

(15) "Motorized or gravity siphon aquatic mining" means mining using any form of motorized equipment including, but not limited to, a motorized suction dredge or a gravity siphon suction dredge, for the purpose of extracting gold, silver, or other precious metals, that involves a discharge to waters of the state, but does not include metals mining and milling operations as defined in RCW 78.56.020.

(16) "Multiple site permit" means a hydraulic project approval issued to a person under RCW 77.55.021 for hydraulic projects occurring at more than one specific location and which includes site-specific requirements.

(17) "Ordinary high water line" means the mark on the shores of all water that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in ordinary years as to mark upon the soil or vegetation a character distinct from the abutting upland. Provided, that in any area where the ordinary high water line cannot be found, the ordinary high water line adjoining saltwater is the line of mean higher high water and the ordinary high water line adjoining fresh water is the elevation of the mean annual flood.

(18) "Pamphlet hydraulic project" means a hydraulic project for the removal or control of aquatic noxious weeds conducted under the aquatic plants and fish pamphlet authorized by RCW 77.55.081, or for mineral prospecting and mining conducted under the gold and fish pamphlet authorized by RCW 77.55.091.

(19) "Permit" means a hydraulic project approval permit issued under this chapter.

(20) "Permit modification" means a hydraulic project approval issued to a person under RCW 77.55.021 that extends, renews, or changes the conditions of a previously issued hydraulic project approval.

(21) "Sandbars" includes, but is not limited to, sand, gravel, rock, silt, and sediments.

(22) "Small scale prospecting and mining" means the use of only the following methods: Pans; nonmotorized sluice boxes; nonmotorized concentrators; and minirocker boxes for the discovery and recovery of minerals, but does not include metals mining and milling operations as defined in RCW 78.56.020.

(23) "Spartina," "purple loosestrife," and "aquatic noxious weeds" have the same meanings as defined in RCW 17.26.020.

(24) "Stream bank stabilization" means those projects that prevent or limit erosion, slippage, and mass wasting. These projects include, but are not limited to, bank resloping, log and debris relocation or removal, planting of woody vegetation, bank protection using rock or woody material or placement of jetties or groins, gravel removal, or erosion control.

(25) "Tide gate" means a one-way check valve that prevents the backflow of tidal water.

(26) "Waters of the state" and "state waters" means all salt and fresh waters waterward of the ordinary high water line and within the territorial boundary of the state. [2020 c 10 § 3. Prior: 2012 1st sp.s. c 1 § 101; prior: 2010 c 210 § 26; 2009 c 549 § 1028; 2005 c 146 § 101.]

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

Findings—2020 c 10: See note following RCW 90.48.615.

Finding—Intent—2012 1st sp.s. c 1: "The legislature finds that significant opportunities exist to modify programs that provide for management and protection of the state's natural resources, including the state's forests, fish, and wildlife, in order to streamline regulatory processes and achieve program efficiencies while at the same time increasing the sustainability of program funding and maintaining current levels of natural resource protection. The legislature intends to update provisions relating to natural resource management and regulatory programs including the hydraulic project approval program, forest practices act, and state environmental policy act, in order to achieve these opportunities." [2012 1st sp.s. c 1 § 1.]

Limitation—2012 1st sp.s. c 1: "Nothing in this act affects any rules, processes, or procedures of the department of fish and wildlife and the department of natural resources existing on July 10, 2012, that provide for regulatory integration of hydraulic projects and forest practices for projects in nonfish-bearing waters." [2012 1st sp.s. c 1 § 216.]

Jurisdiction/authority of Indian tribe under act—2012 1st sp.s. c 1: "Nothing in this act affects the jurisdiction or other authority of a federally recognized Indian tribe within the boundary of its reservation or on other tribally owned lands." [2012 1st sp.s. c 1 § 218.]

Intent—Effective dates—Application—Pending cases and rules—2010 c 210: See notes following RCW 43.21B.001.

Additional notes found at www.leg.wa.gov

77.55.021 Permit. (1) Except as provided in RCW 77.55.031, 77.55.051, 77.55.041, and 77.55.361, in the event that any person or government agency desires to undertake a hydraulic project, the person or government agency shall, before commencing work thereon, secure the approval of the department in the form of a permit as to the adequacy of the means proposed for the protection of fish life.

(2) A complete written application for a permit may be submitted in person or by registered mail and must contain the following:

- (a) General plans for the overall project;
- (b) Complete plans and specifications of the proposed construction or work within the mean higher high water line in salt water or within the ordinary high water line in fresh water;
- (c) Complete plans and specifications for the proper protection of fish life;
- (d) Notice of compliance with any applicable requirements of the state environmental policy act, unless otherwise provided for in this chapter; and

(e) In the event that any person or government agency desires to undertake mineral prospecting or mining using motorized or gravity siphon equipment or desires to discharge effluent from such an activity to waters of the state, the person or government agency must also provide proof of compliance with the requirements of the federal clean water act issued by the department of ecology.

(3) The department may establish direct billing accounts or other funds transfer methods with permit applicants to satisfy the fee payment requirements of *RCW 77.55.321.

(4) The department may accept complete, written applications as provided in this section for multiple site permits and may issue these permits. For multiple site permits, each specific location must be identified.

(5) With the exception of emergency permits as provided in subsection (12) of this section, applications for permits must be submitted to the department's headquarters office in Olympia. Requests for emergency permits as provided in subsection (12) of this section may be made to the permitting biologist assigned to the location in which the emergency occurs, to the department's regional office in which the emergency occurs, or to the department's headquarters office.

(6) Except as provided for emergency permits in subsection (12) of this section, the department may not proceed with permit review until all fees are paid in full as required in *RCW 77.55.321.

(7)(a) Protection of fish life is the only ground upon which approval of a permit may be denied or conditioned. Approval of a permit may not be unreasonably withheld or unreasonably conditioned.

(b) Except as provided in this subsection and subsections (12) through (14) and (16) of this section, the department has forty-five calendar days upon receipt of a complete application to grant or deny approval of a permit. The forty-five day requirement is suspended if:

- (i) After ten working days of receipt of the application, the applicant remains unavailable or unable to arrange for a timely field evaluation of the proposed project;
- (ii) The site is physically inaccessible for inspection;
- (iii) The applicant requests a delay; or
- (iv) The department is issuing a permit for a stormwater discharge and is complying with the requirements of RCW 77.55.161(3)(b).

(c) Immediately upon determination that the forty-five day period is suspended under (b) of this subsection, the department shall notify the applicant in writing of the reasons for the delay.

(d) The period of forty-five calendar days may be extended if the permit is part of a multiagency permit streamlining effort and all participating permitting agencies and the permit applicant agree to an extended timeline longer than forty-five calendar days.

(8) If the department denies approval of a permit, the department shall provide the applicant a written statement of the specific reasons why and how the proposed project would adversely affect fish life.

(a) Except as provided in (b) of this subsection, issuance, denial, conditioning, or modification of a permit shall be appealable to the board within thirty days from the date of receipt of the decision as provided in RCW 43.21B.230.

(b) Issuance, denial, conditioning, or modification of a permit may be informally appealed to the department within thirty days from the date of receipt of the decision. Requests for informal appeals must be filed in the form and manner prescribed by the department by rule. A permit decision that has been informally appealed to the department is appealable to the board within thirty days from the date of receipt of the department's decision on the informal appeal.

(9)(a) The permittee must demonstrate substantial progress on construction of that portion of the project relating to the permit within two years of the date of issuance.

(b) Approval of a permit is valid for up to five years from the date of issuance, except as provided in (c) of this subsection and in RCW 77.55.151.

(c) A permit remains in effect without need for periodic renewal for hydraulic projects that divert water for agricultural irrigation or stock watering purposes and that involve seasonal construction or other work. A permit for stream bank stabilization projects to protect farm and agricultural land as defined in RCW 84.34.020 remains in effect without need for periodic renewal if the problem causing the need for the stream bank stabilization occurs on an annual or more frequent basis. The permittee must notify the appropriate agency before commencing the construction or other work within the area covered by the permit.

(10) The department may, after consultation with the permittee, modify a permit due to changed conditions. A modification under this subsection is not subject to the fees provided under *RCW 77.55.321. The modification is appealable as provided in subsection (8) of this section. For a hydraulic project that diverts water for agricultural irrigation or stock watering purposes, when the hydraulic project or other work is associated with stream bank stabilization to protect farm and agricultural land as defined in RCW 84.34.020, the burden is on the department to show that changed conditions warrant the modification in order to protect fish life.

(11) A permittee may request modification of a permit due to changed conditions. The request must be processed within forty-five calendar days of receipt of the written request and payment of applicable fees under *RCW 77.55.321. A decision by the department is appealable as provided in subsection (8) of this section. For a hydraulic project that diverts water for agricultural irrigation or stock watering purposes, when the hydraulic project or other work is associated with stream bank stabilization to protect farm and agricultural land as defined in RCW 84.34.020, the burden is on the permittee to show that changed conditions warrant the requested modification and that such a modification will not impair fish life.

(12)(a) The department, the county legislative authority, or the governor may declare and continue an emergency. If the county legislative authority declares an emergency under this subsection, it shall immediately notify the department. A declared state of emergency by the governor under RCW 43.06.010 shall constitute a declaration under this subsection.

(b) The department, through its authorized representatives, shall issue immediately, upon request, verbal approval for a stream crossing, or work to remove any obstructions, repair existing structures, restore stream banks, protect fish life, or protect property threatened by the stream or a change

in the streamflow without the necessity of obtaining a written permit prior to commencing work. Conditions of the emergency verbal permit must be reduced to writing within thirty days and complied with as provided for in this chapter.

(c) The department may not require the provisions of the state environmental policy act, chapter 43.21C RCW, to be met as a condition of issuing a permit under this subsection.

(d) The department may not charge a person requesting an emergency permit any of the fees authorized by *RCW 77.55.321 until after the emergency permit is issued and reduced to writing.

(13) All state and local agencies with authority under this chapter to issue permits or other authorizations in connection with emergency water withdrawals and facilities authorized under RCW 43.83B.410 shall expedite the processing of such permits or authorizations in keeping with the emergency nature of such requests and shall provide a decision to the applicant within fifteen calendar days of the date of application.

(14) The department or the county legislative authority may determine an imminent danger exists. The county legislative authority shall notify the department, in writing, if it determines that an imminent danger exists. In cases of imminent danger, the department shall issue an expedited written permit, upon request, for work to remove any obstructions, repair existing structures, restore banks, protect fish resources, or protect property. Expedited permit requests require a complete written application as provided in subsection (2) of this section and must be issued within fifteen calendar days of the receipt of a complete written application. Approval of an expedited permit is valid for up to sixty days from the date of issuance. The department may not require the provisions of the state environmental policy act, chapter 43.21C RCW, to be met as a condition of issuing a permit under this subsection.

(15)(a) For any property, except for property located on a marine shoreline, that has experienced at least two consecutive years of flooding or erosion that has damaged or has threatened to damage a major structure, water supply system, septic system, or access to any road or highway, the county legislative authority may determine that a chronic danger exists. The county legislative authority shall notify the department, in writing, when it determines that a chronic danger exists. In cases of chronic danger, the department shall issue a permit, upon request, for work necessary to abate the chronic danger by removing any obstructions, repairing existing structures, restoring banks, restoring road or highway access, protecting fish resources, or protecting property. Permit requests must be made and processed in accordance with subsections (2) and (7) of this section.

(b) Any projects proposed to address a chronic danger identified under (a) of this subsection that satisfies the project description identified in RCW 77.55.181(1)(a)(ii) are not subject to the provisions of the state environmental policy act, chapter 43.21C RCW. However, the project is subject to the review process established in RCW 77.55.181(3) as if it were a fish habitat improvement project.

(16) The department may issue an expedited written permit in those instances where normal permit processing would result in significant hardship for the applicant or unacceptable damage to the environment. Expedited permit requests

require a complete written application as provided in subsection (2) of this section and must be issued within fifteen calendar days of the receipt of a complete written application. Approval of an expedited permit is valid for up to sixty days from the date of issuance. The department may not require the provisions of the state environmental policy act, chapter 43.21C RCW, to be met as a condition of issuing a permit under this subsection. [2020 c 10 § 4; 2012 1st sp.s. c 1 § 102; 2010 c 210 § 27; 2008 c 272 § 1; 2005 c 146 § 201.]

*Reviser's note: RCW 77.55.321 expired June 30, 2017.

Findings—2020 c 10: See note following RCW 90.48.615.

Finding—Intent—Limitation—Jurisdiction/authority of Indian tribe under act—2012 1st sp.s. c 1: See notes following RCW 77.55.011.

Authority of department of fish and wildlife under act—2012 1st sp.s. c 1: See note following RCW 76.09.040.

Intent—Effective dates—Application—Pending cases and rules—2010 c 210: See notes following RCW 43.21B.001.

Additional notes found at www.leg.wa.gov

77.55.031 Driving across established ford. The act of driving across an established ford is exempt from a permit. Driving across streams or on wetted streambeds at areas other than established fords requires a permit. Work within the ordinary high water line of state waters to construct or repair a ford or crossing requires a permit. [2005 c 146 § 301.]

Additional notes found at www.leg.wa.gov

77.55.041 Derelict fishing, crab, and other shellfish gear—Removal. (1) The removal of derelict fishing gear does not require a permit under this chapter if the gear is removed according to the guidelines described in RCW 77.12.865.

(2) The removal of crab and other shellfish gear does not require a permit under this chapter if the gear is removed under a permit issued pursuant to RCW 77.70.500. [2010 c 193 § 10; 2005 c 146 § 302; 2002 c 20 § 4. Formerly RCW 77.55.330.]

Finding—Purpose—2002 c 20: See note following RCW 77.12.865.

Additional notes found at www.leg.wa.gov

77.55.051 Spartina/purple loosestrife—Removal or control. (1) An activity conducted solely for the removal or control of spartina does not require a permit.

(2) An activity conducted solely for the removal or control of purple loosestrife and which is performed with hand-held tools, handheld equipment, or equipment carried by a person does not require a permit. [2005 c 146 § 303.]

Additional notes found at www.leg.wa.gov

77.55.061 Hazardous substance remedial actions—Procedural requirements not applicable. The procedural requirements of this chapter shall not apply to any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to chapter 70A.305 RCW, or to the department of ecology when it conducts a remedial action under chapter 70A.305 RCW. The department of ecology shall ensure compliance with the substantive requirements of this chapter through the consent decree, order, or agreed order issued pursuant to chapter 70A.305 RCW, or during the department-conducted remedial action, through the procedures developed by the department

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pursuant to RCW 70A.305.090. [2020 c 20 § 1465; 1994 c 257 § 18. Formerly RCW 77.55.030, 75.20.025.]

Additional notes found at www.leg.wa.gov

77.55.081 Removal or control of aquatic noxious weeds—Rules—Pamphlet. (1) By June 30, 1997, the department shall develop rules for projects conducted solely for the removal or control of various aquatic noxious weeds other than spartina and purple loosestrife and for activities or hydraulic projects for controlling purple loosestrife not covered by RCW 77.55.051(2). Following the adoption of the rules, the department shall produce and distribute a pamphlet describing the methods of removing or controlling the aquatic noxious weeds that are approved under the rules. The pamphlet serves as the permit for any project that is conducted solely for the removal or control of such aquatic noxious weeds and that is conducted as described in the pamphlet. No further permit is required for such a project.

(2) From time to time as information becomes available, the department shall adopt similar rules for additional aquatic noxious weeds or additional activities for removing or controlling aquatic noxious weeds not governed by RCW 77.55.051 (1) and (2) and shall produce and distribute one or more pamphlets describing these methods of removal or control. Such a pamphlet serves as the permit for any project that is conducted solely for the removal or control of such aquatic noxious weeds and that is conducted as described in the pamphlet. No further permit is required for such a project.

(3) Nothing in this section shall prohibit the department from requiring a permit for those parts of hydraulic projects that are not specifically for the control or removal of spartina, purple loosestrife, or other aquatic noxious weeds. [2005 c 146 § 401; 1995 c 255 § 4. Formerly RCW 77.55.150, 75.20.108.]

Additional notes found at www.leg.wa.gov

77.55.091 Small scale prospecting and mining—Rules. (1) Small scale prospecting and mining shall not require a permit under this chapter if the prospecting is conducted in accordance with rules established by the department.

(2) By December 31, 1998, the department shall adopt rules applicable to small scale prospecting and mining activities subject to this section. The department shall develop the rules in cooperation with the recreational mining community and other interested parties.

(3) Within two months of adoption of the rules, the department shall distribute an updated gold and fish pamphlet that describes methods of mineral prospecting that are consistent with the department's rule. The pamphlet shall be written to clearly indicate the prospecting methods that require a permit under this chapter and the prospecting methods that require compliance with the pamphlet. To the extent possible, the department shall use the provisions of the gold and fish pamphlet to minimize the number of specific provisions of a written permit issued under this chapter. [2005 c 146 § 402; 1997 c 415 § 2. Formerly RCW 77.55.270, 75.20.330.]

Findings—1997 c 415: "The legislature finds that small scale prospecting and mining: (1) Is an important part of the heritage of the state; (2) provides economic benefits to the state; and (3) can be conducted in a manner that is beneficial to fish habitat and fish propagation. Now, therefore, the leg-

islature declares that small scale prospecting and mining shall be regulated in the least burdensome manner that is consistent with the state's fish management objectives and the federal endangered species act." [1997 c 415 § 1.]

Additional notes found at www.leg.wa.gov

77.55.101 Environmental excellence program agreements—Effect on chapter. Notwithstanding any other provision of law, any legal requirement under this chapter, including any standard, limitation, rule, or order is superseded and replaced in accordance with the terms and provisions of an environmental excellence program agreement, entered into under chapter 43.21K RCW. [1997 c 381 § 25. Formerly RCW 77.55.020, 75.20.015.]

Purpose—1997 c 381: See RCW 43.21K.005.

77.55.111 Habitat incentives agreement. When a private landowner is applying for a permit under this chapter and that landowner has entered into a habitat incentives agreement with the department and the department of natural resources as provided in RCW 77.55.121, the department shall comply with the terms of that agreement when evaluating the request for a permit. [2005 c 146 § 403; 2001 c 253 § 54; 1997 c 425 § 4. Formerly RCW 77.55.280, 75.20.340.]

Finding—Intent—1997 c 425: See note following RCW 77.55.121.

Additional notes found at www.leg.wa.gov

77.55.121 Habitat incentives program—Goal—Requirements of agreement—Application evaluation factors. (1) Beginning in January 1998, the department and the department of natural resources shall implement a habitat incentives program based on the recommendations of federally recognized Indian tribes, landowners, the regional fisheries enhancement groups, the timber, fish, and wildlife cooperators, and other interested parties. The program shall allow a private landowner to enter into an agreement with the departments to enhance habitat on the landowner's property for food fish, game fish, or other wildlife species. In exchange, the landowner shall receive state regulatory certainty with regard to future applications for a permit or a forest practices permit on the property covered by the agreement. The overall goal of the program is to provide a mechanism that facilitates habitat development on private property while avoiding an adverse state regulatory impact to the landowner at some future date. A single agreement between the departments and a landowner may encompass up to one thousand acres. A landowner may enter into multiple agreements with the departments, provided that the total acreage covered by such agreements with a single landowner does not exceed ten thousand acres. The departments are not obligated to enter into an agreement unless the departments find that the agreement is in the best interest of protecting fish or wildlife species or their habitat.

(2) A habitat incentives agreement shall be in writing and shall contain at least the following: (a) A description of the property covered by the agreement; (b) an expiration date; (c) a description of the condition of the property prior to the implementation of the agreement; and (d) other information needed by the landowner and the departments for future reference and decisions.

(3) As part of the agreement, the department may stipulate the factors that will be considered when the department

evaluates a landowner's application for a permit on property covered by the agreement. The department's identification of these evaluation factors shall be in concurrence with the department of natural resources and affected federally recognized Indian tribes. In general, future decisions related to the issuance, conditioning, or denial of a permit must be based on the conditions present on the landowner's property at the time of the agreement, unless all parties agree otherwise.

(4) As part of the agreement, the department of natural resources may stipulate the factors that will be considered when the department of natural resources evaluates a landowner's application for a forest practices permit under chapter 76.09 RCW on property covered by the agreement. The department of natural resources' identification of these evaluation factors shall be in concurrence with the department and affected federally recognized Indian tribes. In general, future decisions related to the issuance, conditioning, or denial of forest practices permits shall be based on the conditions present on the landowner's property at the time of the agreement, unless all parties agree otherwise.

(5) The agreement is binding on and may be used by only the landowner who entered into the agreement with the department. The agreement shall not be appurtenant with the land. However, if a new landowner chooses to maintain the habitat enhancement efforts on the property, the new landowner and the department and the department of natural resources may jointly choose to retain the agreement on the property.

(6) If the department and the department of natural resources receive multiple requests for agreements with private landowners under the habitat incentives program, the departments shall prioritize these requests and shall enter into as many agreements as possible within available budgetary resources. [2005 c 146 § 404; 2000 c 107 § 229; 1997 c 425 § 3. Formerly RCW 77.55.300, 77.12.830.]

Finding—Intent—1997 c 425: "In an effort to increase the amount of habitat available for fish and wildlife, the legislature finds that it is desirable for the department of fish and wildlife, the department of natural resources, and other interested parties to work closely with private landowners to achieve habitat enhancements. In some instances, private landowners avoid enhancing habitat because of a concern that the presence of fish or wildlife may make future land management more difficult. It is the intent of this act to provide a mechanism that facilitates habitat development while avoiding an adverse impact on the landowner at a later date. The habitat incentives program is not intended to supercede any federal laws." [1997 c 425 § 1.]

Additional notes found at www.leg.wa.gov

77.55.131 Dike vegetation management guidelines—Memorandum of agreement. The department and the department of ecology will work cooperatively with the United States army corps of engineers to develop a memorandum of agreement outlining dike vegetation management guidelines so that dike owners are eligible for coverage under P.L. 84-99, and state requirements established pursuant to RCW 77.55.021 are met. [2005 c 146 § 405; 2000 c 107 § 18; 1993 sp.s. c 2 § 34; 1991 c 322 § 19. Formerly RCW 77.55.130, 75.20.1041.]

Findings—Intent—1991 c 322: See note following RCW 86.12.200.

Additional notes found at www.leg.wa.gov

77.55.151 Permit issued to a marina or marine terminal for regular maintenance activities. (1) Upon applica-

tion under RCW 77.55.021, the department shall issue a renewable, five-year permit to a marina or marine terminal for its regular maintenance activities identified in the application.

(2) For the purposes of this section, regular maintenance activities may include, but are not limited to:

(a) Maintenance or repair of a boat ramp, launch, or float within the existing footprint;

(b) Maintenance or repair of an existing overwater structure within the existing footprint;

(c) Maintenance or repair of boat lifts or railway launches;

(d) Maintenance or repair of pilings, including the replacement of bumper pilings;

(e) Dredging of less than fifty cubic yards;

(f) Maintenance or repair of shoreline armoring or bank protection;

(g) Maintenance or repair of wetland, riparian, or estuarine habitat; and

(h) Maintenance or repair of an existing outfall.

(3) The five-year permit must include a requirement that a fourteen-day notice be given to the department before regular maintenance activities begin.

(4) A permit under this section is subject to the application fee provided in *RCW 77.55.321. [2012 1st sp.s. c 1 § 105; 2005 c 146 § 502; 2002 c 368 § 7; 1996 c 192 § 2. Formerly RCW 77.55.220, 75.20.180.]

*Reviser's note: RCW 77.55.321 expired June 30, 2017.

Finding—Intent—Limitation—Jurisdiction/authority of Indian tribe under act—2012 1st sp.s. c 1: See notes following RCW 77.55.011.

Authority of department of fish and wildlife under act—2012 1st sp.s. c 1: See note following RCW 76.09.040.

Finding—Intent—2002 c 368: See note following RCW 77.55.161.

Finding—Intent—1996 c 192: "The legislature finds that initial construction of a marina and some maintenance activities change the natural flow or bed of the salt or freshwater body in which the marina is constructed. Because of this disturbance, it is appropriate that plans for initial marina construction as well as some maintenance activities undergo the hydraulic project review and approval process established in chapter 75.20 RCW.

It is the intent of the legislature that after a marina has received a hydraulic project approval and been constructed, a renewable, five-year hydraulic project approval be issued, upon request, for regular maintenance activities within the marina." [1996 c 192 § 1.]

Additional notes found at www.leg.wa.gov

77.55.161 Stormwater discharges. (1) Notwithstanding any other provision of this chapter, all permits related to stormwater discharges must follow the provisions established in this section.

(2) Permits issued in locations covered by a national pollution discharge elimination system municipal stormwater general permit may not be conditioned or denied for water quality or quantity impacts arising from stormwater discharges. A permit is required only for the actual construction of any stormwater outfall or associated structures pursuant to this chapter.

(3)(a) In locations not covered by a national pollution discharge elimination system municipal stormwater general permit, the department may issue permits that contain provisions that protect fish life from adverse effects, such as scouring or erosion of the bed of the water body, resulting from the direct hydraulic impacts of the discharge.

(b) Prior to the issuance of a permit issued under this subsection (3), the department must:

(i) Make a finding that the discharge from the outfall will cause harmful effects to fish life;

(ii) Transmit the findings to the applicant and to the city or county where the project is being proposed; and

(iii) Allow the applicant an opportunity to use local ordinances or other mechanisms to avoid the adverse effects resulting from the direct hydraulic discharge. The forty-five day requirement for permit issuance under RCW 77.55.021 is suspended during the time period the department is meeting the requirements of this subsection (3)(b).

(c) After following the procedures set forth in (b) of this subsection, the department may issue a permit that prescribes the discharge rates from an outfall structure that will prevent adverse effects to the bed or flow of the waterway. The department may recommend, but not specify, the measures required to meet these discharge rates. The department may not require changes to the project design above the mean higher high water mark of marine waters, or the ordinary high water mark of fresh waters of the state. Nothing in this section alters any authority the department may have to regulate other types of projects under this chapter. [2005 c 146 § 503; 2002 c 368 § 4. Formerly RCW 77.55.340.]

Finding—Intent—2002 c 368: "The legislature finds that hydraulic project approvals should ensure that fish life is properly protected, but conditions attached to the approval of these permits must reasonably relate to the potential harm that the projects may produce. The legislature is particularly concerned over the current overlap of agency jurisdiction regarding stormwater projects, and believes that there is an immediate need to address this issue to ensure that project applicants are not given conflicting directions over project design. Requiring a major redesign of a project results in major delays, produces exponentially rising costs for both public and private project applicants, and frequently produces only marginal benefits for fish.

The legislature recognizes that the department of ecology is primarily responsible for the approval of stormwater projects. The legislature believes that once the department of ecology approves a proposed stormwater project, it is inappropriate for the department of fish and wildlife to require a major redesign of that project in order for the applicant to obtain hydraulic project approval. The legislature further believes that it is more appropriate for the department of fish and wildlife to defer the design elements of a stormwater project to the department of ecology and focus its own efforts on determining reasonable mitigation or conditions for the project based upon the project's potential harm to fish. It is the intent of the legislature to restore some balance over conditions attached to hydraulic permits, and to minimize overlapping state regulatory authority regarding stormwater projects in order to reduce waste in both time and money while still providing ample protection for fish life." [2002 c 368 § 1.]

Additional notes found at www.leg.wa.gov

77.55.171 Watershed restoration projects—Permit processing. A permit required by the department for a watershed restoration project as defined in RCW 89.08.460 shall be processed in compliance with RCW 89.08.450 through 89.08.510. [2005 c 146 § 504; 1995 c 378 § 14. Formerly RCW 77.55.210, 75.20.170.]

Additional notes found at www.leg.wa.gov

77.55.181 Fish habitat enhancement project—Permit review and approval process—Fees—Limitation of liability. (1)(a) In order to receive the permit review and approval process created in this section, a fish habitat enhancement project must meet the criteria under this section and must be a project to accomplish one or more of the following tasks:

(i) Elimination of human-made or caused fish passage barriers, including:

(A) Culvert repair and replacement; and

(B) Fish passage barrier removal projects that comply with the forest practices rules, as the term "forest practices rules" is defined in RCW 76.09.020;

(ii) Restoration of an eroded or unstable stream bank employing the principle of bioengineering, including limited use of rock as a stabilization only at the toe of the bank, and with primary emphasis on using native vegetation to control the erosive forces of flowing water;

(iii) Placement of woody debris or other instream structures that benefit naturally reproducing fish stocks; or

(iv) Restoration of native kelp and eelgrass beds and restoring native oysters.

(b) The department shall develop size or scale threshold tests to determine if projects accomplishing any of these tasks should be evaluated under the process created in this section or under other project review and approval processes. A project proposal shall not be reviewed under the process created in this section if the department determines that the scale of the project raises concerns regarding public health and safety.

(c) A fish habitat enhancement project must be approved in one of the following ways in order to receive the permit review and approval process created in this section:

(i) By the department pursuant to chapter 77.95 or 77.100 RCW;

(ii) By the sponsor of a watershed restoration plan as provided in chapter 89.08 RCW;

(iii) By the department as a department-sponsored fish habitat enhancement or restoration project;

(iv) Through the review and approval process for the jobs for the environment program;

(v) By conservation districts as conservation district-sponsored fish habitat enhancement or restoration projects;

(vi) Through a formal grant program established by the legislature or the department for fish habitat enhancement or restoration;

(vii) By federally recognized tribes as tribally sponsored fish habitat enhancement projects or restoration projects;

(viii) Through the department of transportation's environmental retrofit program as a stand-alone fish passage barrier correction project, or the fish passage barrier correction portion of a larger transportation project;

(ix) Through a local, state, or federally approved fish barrier removal grant program designed to assist local governments in implementing stand-alone fish passage barrier corrections;

(x) By a city or county for a stand-alone fish passage barrier correction project funded by the city or county;

(xi) Through the approval process established for forest practices hydraulic projects in chapter 76.09 RCW; or

(xii) Through other formal review and approval processes established by the legislature.

(2) Fish habitat enhancement projects meeting the criteria of subsection (1) of this section are expected to result in beneficial impacts to the environment. Decisions pertaining to fish habitat enhancement projects meeting the criteria of subsection (1) of this section and being reviewed and approved according to the provisions of this section are not subject to the requirements of RCW 43.21C.030(2)(c).

(3)(a) A permit is required for projects that meet the criteria of subsection (1) of this section and are being reviewed and approved under this section. An applicant shall use a joint aquatic resource permit application form developed by the office of regulatory assistance to apply for approval under this chapter. The department of transportation shall use the department's online permit application system or a joint aquatic resource permit application form developed by the office of regulatory assistance to apply for approval under this chapter. On the same day, the applicant shall provide copies of the completed application form to the department and to each appropriate local government. Applicants for a forest practices hydraulic project that are not otherwise required to submit a joint aquatic resource permit application must submit a copy of their forest practices application to the appropriate local government on the same day that they submit the forest practices application to the department of natural resources.

(b) Local governments shall accept the application identified in this section as notice of the proposed project. A local government shall be provided with a 15-day comment period during which it may transmit comments regarding environmental impacts to the department or, for forest practices hydraulic projects, to the department of natural resources.

(c)(i) Except for forest practices hydraulic projects, the department shall, within 45 days, either issue a permit, with or without conditions, deny approval, or make a determination that the review and approval process created by this section is not appropriate for the proposed project. The department shall base this determination on identification during the comment period of adverse impacts that cannot be mitigated by the conditioning of a permit. Permitting decisions over forest practices hydraulic approvals must be made consistent with chapter 76.09 RCW.

(ii) For department of transportation fish passage barrier correction projects, the department of fish and wildlife shall, within 30 days, either issue a permit, with or without conditions, deny approval, or make a determination that the review and approval process created by this section is not appropriate for the proposed project.

(d) If the department determines that the review and approval process created by this section is not appropriate for the proposed project, the department shall notify the applicant and the appropriate local governments of its determination. The applicant may reapply for approval of the project under other review and approval processes.

(e) Any person aggrieved by the approval, denial, conditioning, or modification of a permit other than a forest practices hydraulic project under this section may appeal the decision as provided in RCW 77.55.021(8). Appeals of a forest practices hydraulic project may be made as provided in chapter 76.09 RCW.

(4) No local government may require permits or charge fees for fish habitat enhancement projects that meet the criteria of subsection (1) of this section and that are reviewed and approved according to the provisions of this section, except that, pursuant to chapter 86.16 RCW, a local government may impose such requirements, or charge such fees, or both, only as may be necessary in order for the local government to administer the national flood insurance program regulation requirements.

(5) No civil liability may be imposed by any court on the state or its officers and employees for any adverse impacts resulting from a fish enhancement project permitted by the department or the department of natural resources under the criteria of this section except upon proof of gross negligence or willful or wanton misconduct. [2021 c 289 § 1; 2020 c 166 § 1; 2019 c 150 § 1; 2017 c 241 § 1; 2014 c 120 § 1; 2010 c 210 § 29; 2005 c 146 § 505; 2001 c 253 § 55; 1998 c 249 § 3. Formerly RCW 77.55.290, 75.20.350.]

Intent—Effective dates—Application—Pending cases and rules—2010 c 210: See notes following RCW 43.21B.001.

Findings—Purpose—1998 c 249: "The legislature finds that fish habitat enhancement projects play a key role in the state's salmon and steelhead recovery efforts. The legislature finds that there are over two thousand barriers to fish passage at road crossings throughout the state, blocking fish access to as much as three thousand miles of freshwater spawning and rearing habitat. The legislature further finds that removal of these barriers and completion of other fish habitat enhancement projects should be done in a cost-effective manner, which includes providing technical assistance and training to people who will undertake projects such as removal of barriers to salmon passage and minimizing the expense and delays of various permitting processes. The purpose of this act is to take immediate action to facilitate the review and approval of fish habitat enhancement projects, to encourage efforts that will continue to improve the process in the future, to address known fish passage barriers immediately, and to develop over time a comprehensive system to inventory and prioritize barriers on a statewide basis." [1998 c 249 § 1.]

Finding—Report—1998 c 249: "The legislature finds that, while the process created in this act can improve the speed with which fish habitat enhancement projects are put into place, additional efforts can improve the review and approval process for the future. The legislature directs the department of fish and wildlife, the conservation commission, local governments, fish habitat enhancement project applicants, and other interested parties to work together to continue to improve the permitting review and approval process. Specific efforts shall include the following:

- (1) Development of common acceptable design standards, best management practices, and standardized hydraulic project approval conditions for each type of fish habitat enhancement project;
- (2) An evaluation of the potential for using technical evaluation teams in evaluating specific project proposals or stream reaches;
- (3) An evaluation of techniques appropriate for restoration and enhancement of pasture and crop land adjacent to riparian areas;
- (4) A review of local government shoreline master plans to identify and correct instances where the local plan does not acknowledge potentially beneficial instream work;
- (5) An evaluation of the potential for local governments to incorporate fish habitat enhancement projects into their comprehensive planning process; and
- (6) Continued work with the federal government agencies on federal permitting for fish habitat enhancement projects.

The department of fish and wildlife shall coordinate this joint effort and shall report back to the legislature on the group's progress by December 1, 1998." [1998 c 249 § 15.]

Additional notes found at www.leg.wa.gov

77.55.191 Columbia river anadromous fish sanctuary—Restrictions. (1) Except for the north fork of the Lewis river and the White Salmon river, all streams and rivers tributary to the Columbia river downstream from McNary dam are established as an anadromous fish sanctuary. This sanctuary is created to preserve and develop the food fish and game fish resources in these streams and rivers and to protect them against undue industrial encroachment.

(2) Within the sanctuary area:

- (a) The department shall not issue a permit to construct a dam greater than twenty-five feet high within the migration range of anadromous fish as determined by the department.
- (b) A person shall not divert water from rivers and streams in quantities that will reduce the respective stream-

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flow below the annual average low flow, based upon data published in United States geological survey reports.

(3) The commission may acquire and abate a dam or other obstruction, or acquire any water right vested on a sanctuary stream or river, which is in conflict with the provisions of subsection (2) of this section.

(4) Subsection (2)(a) of this section does not apply to the sediment retention structure to be built on the North Fork Toutle river by the United States army corps of engineers. [2005 c 146 § 506; 1998 c 190 § 89; 1995 1st sp.s. c 2 § 27 (Referendum Bill No. 45, approved November 7, 1995); 1993 sp.s. c 2 § 36; 1988 c 36 § 36; 1985 c 307 § 5; 1983 1st ex.s. c 46 § 76; 1961 c 4 § 1 (Initiative Measure No. 25, approved November 8, 1960). Formerly RCW 77.55.160, 75.20.110.]

Additional notes found at www.leg.wa.gov

77.55.201 Landscape management plan. A landscape management plan approved by the department and the department of natural resources under RCW 76.09.350(2) shall serve as a permit for the life of the plan if fish are selected as one of the public resources for coverage under such a plan. [2005 c 146 § 507.]

Additional notes found at www.leg.wa.gov

77.55.211 Informational brochure. The department, the department of ecology, and the department of natural resources shall jointly develop an informational brochure that describes when permits and any other authorizations are required for flood damage prevention and reduction projects, and recommends ways to best proceed through the various regulatory permitting processes. [2005 c 146 § 406; 1993 sp.s. c 2 § 28; 1991 c 322 § 21. Formerly RCW 77.55.010, 75.20.005.]

Findings—Intent—1991 c 322: See note following RCW 86.12.200.

Additional notes found at www.leg.wa.gov

77.55.221 Flood damage repair and reduction activities—Five-year maintenance permit agreements. The department shall, at the request of a county, develop five-year maintenance permit agreements, consistent with comprehensive flood control management plans adopted under the authority of RCW 86.12.200, or other watershed plan approved by a county legislative authority, to allow for work on public and private property for bank stabilization, bridge repair, removal of sandbars and debris, channel maintenance, and other flood damage repair and reduction activity under agreed-upon conditions and times without obtaining permits for specific projects. [2005 c 146 § 508.]

Additional notes found at www.leg.wa.gov

77.55.231 Conditions imposed upon a permit—Reasonably related to project—Least impactful modifications—Minor modifications to plans/work timing. (1)(a) Conditions imposed upon a permit must be reasonably related to the project. The permit conditions must ensure that the project provides proper protection for fish life, but the department may not impose conditions that attempt to optimize conditions for fish life that are out of proportion to the impact of the proposed project.

(b) In the event that any person desires to replace residential marine shoreline stabilization or armoring, a person must use the least impacting technically feasible bank protection alternative for the protection of fish life. Unless the department provides an exemption depending on the scale and nature of the project, a person that desires to replace residential marine shoreline stabilization or armoring must conduct a site assessment to consider the least impactful alternatives. A person should propose a hard armor technique only after considering site characteristics such as the threat to major improvements, wave energy, and other factors in an analysis of alternatives. The common alternatives identified in (b)(i) through (vii) of this subsection are in order from most preferred to least preferred:

- (i) Remove the structure and restore the beach;
- (ii) Remove the structure and install native vegetation;
- (iii) Remove the structure and control upland drainage;
- (iv) Remove the structure and replace it with a soft structure constructed of natural materials, including bioengineering;
- (v) Remove the hard structure and construct upland retaining walls;
- (vi) Remove the hard structure and replace it with a hard structure located landward of the existing structure, preferably at or above the ordinary high water line; or
- (vii) Remove the hard structure and replace it with hard shoreline structure in the same footprint as the existing structure.

(c) For the purposes of this subsection, "feasible" means available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.

(2) The permit must contain provisions allowing for minor modifications to the plans and specifications without requiring reissuance of the permit.

(3) The permit must contain provisions that allow for minor modifications to the required work timing without requiring the reissuance of the permit. "Minor modifications to the required work timing" means a minor deviation from the timing window set forth in the permit when there are no spawning or incubating fish present within the vicinity of the project. [2021 c 279 § 2; 2012 1st sp.s. c 1 § 106; 2005 c 146 § 601; 2002 c 368 § 5. Formerly RCW 77.55.350.]

Findings—2021 c 279: "The legislature finds that the state of Washington will continue to be negatively impacted by the effects of climate change, including reduced winter snowpack, drought, increased frequencies of forest fires, and acidifying oceans that disrupt marine ecosystem viability. In the nearshore environment, climate change contributes to the rise in average sea-surface temperatures and rising sea levels. Hardened shoreline structures are not always well-suited for their intended purpose and may have unintended consequences in the nearshore environment. Soft shorelines or natural shorelines may protect and restore shoreline ecosystems through the use of natural plants and materials, and the legislature finds that landowners must consider alternatives to hardening shorelines to restore ecosystem function and recover threatened and endangered species to help address the impacts of climate change in the nearshore environment." [2021 c 279 § 1.]

Finding—Intent—Limitation—Jurisdiction/authority of Indian tribe under act—2012 1st sp.s. c 1: See notes following RCW 77.55.011.

Authority of department of fish and wildlife under act—2012 1st sp.s. c 1: See note following RCW 76.09.040.

Finding—Intent—2002 c 368: See note following RCW 77.55.161.

Additional notes found at www.leg.wa.gov

77.55.241 Off-site mitigation. (1) The legislature finds that the construction of hydraulic projects may require mitigation for the protection of fish life, and that the mitigation may be most cost-effective and provide the most benefit to the fish resource if the mitigation is allowed to be applied in locations that are off-site of the hydraulic project location. The department may approve off-site mitigation plans that are submitted by permit applicants.

(2) If a permit applicant proposes off-site mitigation and the department does not approve the permit or conditions the permit in such a manner as to render off-site mitigation unpracticable, the project proponent may appeal the decision as provided in *RCW 77.55.021(4). [2010 c 210 § 30; 2005 c 146 § 602; 1996 c 276 § 1. Formerly RCW 77.55.230, 75.20.190.]

***Reviser's note:** RCW 77.55.021 was amended by 2012 1st sp.s. c 1 § 102, changing subsection (4) to subsection (8).

Intent—Effective dates—Application—Pending cases and rules—2010 c 210: See notes following RCW 43.21B.001.

Additional notes found at www.leg.wa.gov

77.55.251 Mitigation plan review. When reviewing a mitigation plan under RCW 77.55.021, the department shall, at the request of the project proponent, follow the guidance contained in RCW 90.74.005 through 90.74.030. [2005 c 146 § 603; 2000 c 107 § 15; 1997 c 424 § 6. Formerly RCW 77.55.090, 75.20.098.]

Additional notes found at www.leg.wa.gov

77.55.261 Placement of woody debris as condition of permit. Whenever the placement of woody debris is required as a condition of a permit issued under RCW 77.55.021, the department, upon request, shall invite comment regarding that placement from the local governmental authority, affected tribes, affected federal and state agencies, and the project applicant. [2005 c 146 § 604; 2000 c 107 § 17; 1993 sp.s. c 2 § 33; 1991 c 322 § 18. Formerly RCW 77.55.120, 75.20.104.]

Findings—Intent—1991 c 322: See note following RCW 86.12.200.

Additional notes found at www.leg.wa.gov

77.55.271 Sediment dredging or capping actions—Dredging of existing channels and berthing areas—Mitigation not required. The department shall not require mitigation for sediment dredging or capping actions that result in a cleaner aquatic environment and equal or better habitat functions and values, if the actions are taken under a state or federal cleanup action.

This chapter shall not be construed to require habitat mitigation for navigation and maintenance dredging of existing channels and berthing areas. [1997 c 424 § 5. Formerly RCW 77.55.260, 75.20.325.]

77.55.281 Fishways on certain agricultural drainage facilities. (1) The department may not require a fishway on a tide gate, flood gate, or other associated man-made agricultural drainage facilities as a condition of a permit if such a fishway was not originally installed as part of an agricultural drainage system existing on or before May 20, 2003.

(2) Any condition requiring a self-regulating tide gate to achieve fish passage in an existing permit under this chapter may not be enforced. [2005 c 146 § 605.]

Additional notes found at www.leg.wa.gov

77.55.331 Hydraulic project approval account. (1) The hydraulic project approval account is created in the state treasury. All receipts from application fees for hydraulic project approval applications collected under *RCW 77.55.321 must be deposited into the account.

(2) Except for unanticipated receipts under RCW 43.79.260 through 43.79.282, moneys in the hydraulic project approval account may be spent only after appropriation.

(3) Expenditures from the hydraulic project approval account may be used only to fund department activities relating to implementing and operating the hydraulic project approval program. [2012 1st sp.s. c 1 § 104.]

*Reviser's note: RCW 77.55.321 expired June 30, 2017.

Finding—Intent—Limitation—Jurisdiction/authority of Indian tribe under act—2012 1st sp.s. c 1: See notes following RCW 77.55.011.

Authority of department of fish and wildlife under act—2012 1st sp.s. c 1: See note following RCW 76.09.040.

77.55.341 Department to prepare and distribute information to the public. The department shall prepare and distribute technical and educational information to the general public to assist the public in complying with the requirements of this chapter, including the changes resulting from chapter 1, Laws of 2012 1st sp. sess. [2012 1st sp.s. c 1 § 107.]

Finding—Intent—Limitation—Jurisdiction/authority of Indian tribe under act—2012 1st sp.s. c 1: See notes following RCW 77.55.011.

Authority of department of fish and wildlife under act—2012 1st sp.s. c 1: See note following RCW 76.09.040.

77.55.351 Department to develop system to provide access to hydraulic project approval applications. The department shall develop a system to provide local governments, affected tribes, and other interested parties with access to hydraulic project approval applications. [2012 1st sp.s. c 1 § 108.]

Finding—Intent—Limitation—Jurisdiction/authority of Indian tribe under act—2012 1st sp.s. c 1: See notes following RCW 77.55.011.

Authority of department of fish and wildlife under act—2012 1st sp.s. c 1: See note following RCW 76.09.040.

77.55.361 Limitations of chapter to a forest practices hydraulic project—Adoption of rules for concurrent review process—Department's duties regarding chapter 76.09 RCW. (1) The requirements of this chapter do not apply to any forest practices hydraulic project, or to any activities that are associated with such a project, upon incorporation of fish protection standards adopted under this chapter into the forest practices rules and approval of technical guidance as required under RCW 76.09.040, at which time these projects are regulated under chapter 76.09 RCW.

(2) The department must continue to conduct regulatory and enforcement activities under this chapter for forest practices hydraulic projects until the forest practices board incorporates fish protection standards adopted under this chapter into the forest practices rules and approves technical guidance as required under RCW 76.09.040.

(3) By December 31, 2013, the department shall adopt rules establishing the procedures for the concurrence review process consistent with RCW 76.09.490. The concurrence review process must allow the department up to thirty days to review forest practices hydraulic projects meeting the criteria under RCW 76.09.490(2) (a) and (b) for consistency with fish protection standards.

(4) The department shall notify the department of natural resources prior to beginning a rule-making process that may affect activities regulated under chapter 76.09 RCW.

(5) The department shall act consistent with appendix M of the forest and fish report, as the term "forests and fish report" is defined in RCW 76.09.020, when modifying fish protection rules that may affect activities regulated under chapter 76.09 RCW.

(6) The department may review and provide comments on any forest practices application. The department shall review, and either verify that the review has occurred or comment on, forest practices applications that include a forest practices hydraulic project involving fish bearing waters or shorelines of the state, as that term is defined in RCW 90.58.030. Prior to commenting and whenever reasonably practicable, the department shall communicate with the applicant regarding the substance of the project.

(7) The department shall participate in effectiveness monitoring for forest practices hydraulic projects through its role in the review processes provided under WAC 222-08-160 as it existed on July 10, 2012. [2012 1st sp.s. c 1 § 201.]

Finding—Intent—Limitation—Jurisdiction/authority of Indian tribe under act—2012 1st sp.s. c 1: See notes following RCW 77.55.011.

Authority of department of fish and wildlife under act—2012 1st sp.s. c 1: See note following RCW 76.09.040.

77.55.371 Memorandum of agreement to implement integration of hydraulic project approvals into forest practices applications—Interagency contract. (1) The department and the department of natural resources shall enter into and maintain a memorandum of agreement between the two agencies that describes how to implement integration of hydraulic project approvals into forest practices applications consistent with chapter 1, Laws of 2012 1st sp. sess.

(2) The initial memorandum of agreement required under subsection (1) of this section between the two departments must be executed by December 31, 2012. The memorandum of agreement may be amended as agreed to by the two departments.

(3) The department and the department of natural resources shall enter into and maintain an interagency contract to ensure implementation of chapter 1, Laws of 2012 1st sp. sess. and the memorandum of agreement between the two agencies required under subsection (1) of this section. The contract must include funding provisions for the department's review of forest practices hydraulic projects. [2012 1st sp.s. c 1 § 204.]

Finding—Intent—Limitation—Jurisdiction/authority of Indian tribe under act—2012 1st sp.s. c 1: See notes following RCW 77.55.011.

Authority of department of fish and wildlife under act—2012 1st sp.s. c 1: See note following RCW 76.09.040.

77.55.400 Determination as to whether construction is a hydraulic project—Preapplication determination—Review and comment period—Written determination.

(1) A person proposing construction or other work landward of the ordinary high water line that will use, divert, obstruct, or change the natural flow or bed of state waters shall submit a permit application to the department. However, if a person is unsure about whether the work requires a permit, they may request a preapplication determination from the department. The department must evaluate the proposed work and determine if the work is a hydraulic project and, if so, whether a permit from the department is required to ensure adequate protection of fish life.

(2) The preapplication determination request must be submitted through the department's online permitting system and must contain:

- (a) A description of the proposed project;
- (b) A map showing the location of the project site; and
- (c) Preliminary plans and specifications of the proposed construction or work, if available.

(3) The department shall provide tribes and local governments a seven calendar day review and comment period. The department shall consider all applicable written comments received before issuing a determination.

(4) The department shall issue a written determination, including the rationale for the decision, within twenty-one calendar days of receiving the request.

(5) Determinations made according to the provisions of this section are not subject to the requirements of chapter 43.21C RCW. [2019 c 290 § 4.]

Finding—Intent—2019 c 290: See note following RCW 77.12.085.

77.55.410 Violation of chapter. (1) When the department determines that a violation of this chapter, or of any of the rules that implement this chapter, has occurred or is about to occur, it shall first attempt to achieve voluntary compliance. The department shall offer information and technical assistance to the project proponent, identifying one or more means to accomplish the project proponent's purposes within the framework of the law. The department shall provide a reasonable timeline to achieve voluntary compliance that takes into consideration factors specific to the violation, such as the complexity of the hydraulic project, the actual or potential harm to fish life or fish habitat, and the environmental conditions at the time.

(2) If a person violates this chapter, or any of the rules that implement this chapter, or deviates from a permit, the department may issue a notice of correction in accordance with chapter 43.05 RCW, a notice of violation in accordance with chapter 43.05 RCW, a stop work order, a notice to comply, or a notice of civil penalty as authorized by law and subject to chapter 43.05 RCW and RCW 34.05.110.

(3) For purposes of this section, the term "project proponent" means a person who has applied for a hydraulic project approval, a person identified as an authorized agent on an application for a hydraulic project approval, a person who has obtained a hydraulic project approval, or a person who undertakes a hydraulic project without a hydraulic project approval.

(4) This section does not apply to a project, or to that portion of a project, that has received a forest practices hydraulic

project permit from the department of natural resources pursuant to chapter 76.09 RCW. [2019 c 290 § 5.]

Finding—Intent—2019 c 290: See note following RCW 77.12.085.

77.55.420 Stop work order—Notice—Appeal. (1) The department may serve upon a project proponent a stop work order, which is a final order of the department, if:

(a) There is any severe violation of this chapter or of the rules implementing this chapter or there is a deviation from the hydraulic project approval that may cause significant harm to fish life; and

(b) Immediate action is necessary to prevent continuation of or to avoid more than minor harm to fish life or fish habitat.

(2)(a) The stop work order must set forth:

(i) A description of the condition that is not in compliance and the text of the specific section or subsection of this chapter or the rules that implement this chapter;

(ii) A statement of what is required to achieve compliance;

(iii) The date by which the department requires compliance;

(iv) Notice of the means to contact any technical assistance services provided by the department or others;

(v) Notice of when, where, and to whom the request to extend the time to achieve compliance for good cause may be filed with the department; and

(vi) The right to an appeal.

(b) A stop work order may require that any project proponent stop all work connected with the violation until corrective action is taken. A stop work order may also require that any project proponent take corrective action to prevent, correct, or compensate for adverse impacts to fish life and fish habitat.

(c) A stop work order must be authorized by senior or executive department personnel. The department shall initiate rule making to identify the appropriate level of senior and executive level staff approval for these actions based on the level of financial effect on the violator and the scope and scale of the impact to fish life and habitat.

(3) Within five business days of issuing the stop work order, the department shall mail a copy of the stop work order to the last known address of any project proponent, to the last known address of the owner of the land on which the hydraulic project is located, and to the local jurisdiction in which the hydraulic project is located. The department must take all measures reasonably calculated to ensure that the project proponent actually receives notice of the stop work order.

(4) Issuance of a stop work order may be informally appealed by a project proponent who was served with the stop work order or who received a copy of the stop work order from the department, or by the owner of the land on which the hydraulic project is located, to the department within thirty days from the date of receipt of the stop work order. Requests for informal appeal must be filed in the form and manner prescribed by the department by rule. A stop work order that has been informally appealed to the department is appealable to the board within thirty days from the date of receipt of the department's decision on the informal appeal.

(5) The project proponent who was served with the stop work order or who received a copy of the stop work order from the department, or the owner of the land on which the hydraulic project is located, may commence an appeal to the board within thirty days from the date of receipt of the stop work order. If such an appeal is commenced, the proceeding is an adjudicative proceeding under the administrative procedure act, chapter 34.05 RCW. The recipient of the stop work order must comply with the order of the department immediately upon being served, but the board may stay, modify, or discontinue the order, upon motion, under such conditions as the board may impose.

(6) This section does not apply to a project, or to that portion of a project, that has received a forest practices hydraulic project permit from the department of natural resources pursuant to chapter 76.09 RCW.

(7) For the purposes of this section, "project proponent" has the same meaning as defined in RCW 77.55.410(3). [2019 c 290 § 6.]

Finding—Intent—2019 c 290: See note following RCW 77.12.085.

77.55.430 Notice to comply—Notice—Appeal. (1)(a) If a violation of this chapter or of the rules implementing this chapter, a deviation from the hydraulic project approval, damage to fish life or fish habitat, or potential damage to fish life or fish habitat, has occurred and the department determines that a stop work order is unnecessary, the department may issue and serve upon a project proponent a notice to comply, which must clearly set forth:

(i) A description of the condition that is not in compliance and the text of the specific section or subsection of this chapter or the rules that implement this chapter;

(ii) A statement of what is required to achieve compliance;

(iii) The date by which the department requires compliance to be achieved;

(iv) Notice of the means to contact any technical assistance services provided by the department or others;

(v) Notice of when, where, and to whom a request to extend the time to achieve compliance for good cause may be filed with the department; and

(vi) The right to an appeal.

(b) The notice to comply may require that any project proponent take corrective action to prevent, correct, or compensate for adverse impacts to fish life or fish habitat.

(2) Within five business days of issuing the notice to comply, the department shall mail a copy of the notice to comply to the last known address of any project proponent, to the last known address of the owner of the land on which the hydraulic project is located, and to the local jurisdiction in which the hydraulic project is located. The department must take all measures reasonably calculated to ensure that the project proponent actually receives notice of the notice to comply.

(3) Issuance of a notice to comply may be informally appealed by a project proponent who was served with the notice to comply or who received a copy of the notice to comply from the department, or by the owner of the land on which the hydraulic project is located, to the department within thirty days from the date of receipt of the notice to comply. Requests for informal appeal must be filed in the

form and manner prescribed by the department by rule. A notice to comply that has been informally appealed to the department is appealable to the board within thirty days from the date of receipt of the department's decision on the informal appeal.

(4) The project proponent who was served with the notice to comply, the project proponent who received a copy of the notice to comply from the department, or the owner of the land on which the hydraulic project is located may commence an appeal to the board within thirty days from the date of receipt of the notice to comply. If such an appeal is commenced, the proceeding is an adjudicative proceeding under the administrative procedure act, chapter 34.05 RCW. The recipient of the notice to comply must comply with the notice to comply immediately upon being served, but the board may stay, modify, or discontinue the notice to comply, upon motion, under such conditions as the board may impose.

(5) This section does not apply to a project, or to that portion of a project, that has received a forest practices hydraulic project permit from the department of natural resources pursuant to chapter 76.09 RCW.

(6) For the purposes of this section, "project proponent" has the same meaning as defined in RCW 77.55.410(3). [2019 c 290 § 7.]

Finding—Intent—2019 c 290: See note following RCW 77.12.085.

77.55.440 Penalties—Notice—Appeal—Authority of attorney general to recover penalty—Penalty schedule.

(b) *[(1)] Penalties must be authorized by senior or executive department personnel. The department shall initiate rule making to identify the appropriate level of senior and executive level staff approval for these actions based on the level of financial effect on the violator and the scope and scale of the impact to fish life and habitat.

(2) The penalty provided must be imposed by notice in writing by the department, provided either by certified mail or by personal service, to the person incurring the penalty and to the local jurisdiction in which the hydraulic project is located, describing the violation. The department must take all measures reasonably calculated to ensure that the project proponent actually receives notice of the notice of penalty. The civil penalty notice must set forth:

(a) The basis for the penalty;

(b) The amount of the penalty; and

(c) The right of the person incurring the penalty to appeal the civil penalty.

(3)(a) Except as provided in (b) of this subsection, any person incurring any penalty under this chapter may appeal the penalty to the board pursuant to chapter 34.05 RCW. Appeals must be filed within thirty days from the date of receipt of the notice of civil penalty in accordance with RCW 43.21B.230.

(b) Issuance of a civil penalty may be informally appealed by the person incurring the penalty to the department within thirty days from the date of receipt of the notice of civil penalty. Requests for informal appeal must be filed in the form and manner prescribed by the department by rule. A civil penalty that has been informally appealed to the department is appealable to the board within thirty days from the date of receipt of the department's decision on the informal appeal.

(4) The penalty imposed becomes due and payable thirty days after receipt of a notice imposing the penalty unless an appeal is filed. Whenever an appeal of any penalty incurred under this chapter is filed, the penalty becomes due and payable only upon completion of all review proceedings and the issuance of a final order confirming the penalty in whole or in part. When the penalty becomes past due, it is also subject to interest at the rate allowed by RCW 43.17.240 for debts owed to the state.

(5) If the amount of any penalty is not paid within thirty days after it becomes due and payable, the attorney general, upon the request of the director, shall bring an action in the name of the state of Washington in the superior court of Thurston county or of the county in which such a violation occurred, to recover the penalty. In all such actions, the rules of civil procedure and the rules of evidence are the same as in an ordinary civil action. The department is also entitled to recover reasonable attorneys' fees and costs incurred in connection with the penalty recovered under this section. All civil penalties received or recovered by state agency action for violations as prescribed in subsection (1) of this section must be deposited into the state's general fund. The department is authorized to retain any attorneys' fees and costs it may be awarded in connection with an action brought to recover a civil penalty issued pursuant to this section.

(6) The department shall adopt by rule a penalty schedule to be effective by January 1, 2020. The penalty schedule must be developed in consideration of the following:

- (a) Previous violation history;
- (b) Severity of the impact on fish life and fish habitat;
- (c) Whether the violation of this chapter or of its rules was intentional;
- (d) Cooperation with the department;
- (e) Reparability of any adverse effects resulting from the violation; and
- (f) The extent to which a penalty to be imposed on a person for a violation committed by another should be reduced if the person was unaware of the violation and has not received a substantial economic benefit from the violation.

(7) This section does not apply to a project, or to that portion of a project, that has received a forest practices hydraulic project permit from the department of natural resources pursuant to chapter 76.09 RCW. [2019 c 290 § 8.]

**Reviser's note:* The governor partially vetoed section 8, chapter 290, Laws of 2019.

Finding—Intent—2019 c 290: See note following RCW 77.12.085.

77.55.450 Administrative inspection warrant. (1) The department may apply for an administrative inspection warrant in either Thurston county superior court or the superior court in the county in which the hydraulic project is located. The court may issue an administrative inspection warrant where:

(a) Department personnel need to inspect the hydraulic project site to ensure compliance with this chapter or with rules adopted to implement this chapter; or

(b) Department personnel have probable cause to believe that a violation of this chapter or of the rules that implement this chapter is occurring or has occurred.

(2) This section does not apply to a project, or to that portion of a project, that has received a forest practices hydraulic

project permit from the department of natural resources pursuant to chapter 76.09 RCW. [2019 c 290 § 9.]

Finding—Intent—2019 c 290: See note following RCW 77.12.085.

77.55.460 Disapproval of an application—Notice—Review. (1) The department may disapprove an application for hydraulic project approval submitted by a person who has failed to comply with a final order issued pursuant to RCW 77.55.420 or 77.55.430 or who has failed to pay civil penalties issued pursuant to RCW 77.55.440. Applications may be disapproved for up to one year from the issuance of a notice of intent to disapprove applications under this section, or until all outstanding civil penalties are paid and all outstanding notices to comply and stop work orders are complied with, whichever is longer.

(2) The department shall provide written notice of its intent to disapprove an application under this section to the applicant and to any authorized agent or landowner identified in the application.

(3) The disapproval period runs from thirty days following the date of actual notice of intent or when all administrative and judicial appeals, if any, have been exhausted.

(4) Any person provided the notice may seek review from the board by filing a request for review within thirty days of the date of the notice of intent to disapprove applications. [2019 c 290 § 10.]

Finding—Intent—2019 c 290: See note following RCW 77.12.085.

77.55.470 Remedies under chapter not exclusive. The remedies under this chapter are not exclusive and do not limit or abrogate any other civil or criminal penalty, remedy, or right available in law, equity, or statute. [2019 c 290 § 11.]

Finding—Intent—2019 c 290: See note following RCW 77.12.085.

77.55.480 Habitat recovery pilot program. (Expires June 30, 2025.) (1) The habitat recovery pilot program is created.

(2)(a) In order to be included in this statewide pilot program and qualify for the permit review and approval process created in this section, an environmental restoration project must directly benefit freshwater, estuarine, or marine fish, or the habitat they rely on, and must be included on a list of projects reviewed, approved, or funded by one of the following restoration programs:

- (i) The Bonneville power administration restoration program;
- (ii) The Brian Abbott fish barrier removal board;
- (iii) The estuary and salmon restoration program;
- (iv) The floodplains by design program;
- (v) The office of Chehalis basin aquatic species restoration program;
- (vi) The office of Columbia river habitat recovery projects;
- (vii) The Puget Sound acquisition and restoration fund;
- (viii) The Puget Sound national estuary program;
- (ix) The salmon recovery funding board;
- (x) The Washington coast restoration and resiliency initiative;
- (xi) The Yakima tributary access and habitat program;
- (xii) Fish recovery projects sponsored by a federally recognized tribe; and

(xiii) Fish acclimation facility projects sponsored or operated by a federally recognized tribe.

(b) A project application reviewed under this section must document consistency with local, state, and federal flood risk reduction requirements. A project may not be reviewed under the process created in this section if the local government within whose geographical jurisdiction the project will be located determines that the project does not meet applicable flood risk reduction requirements, or otherwise determines that the project raises concerns regarding public health and safety, and the local government provides timely notice of its determination to the department.

(c)(i) With regard to cultural resources, a project applicant or funding agency must review the project with the department of archaeology and historic preservation and complete any required site surveys before the project applicant files an application under this section. A project applicant must document consistency in the application with applicable cultural resource protection requirements.

(ii) A project applicant must provide a copy of its application to the department of archaeology and historic preservation, and to affected federally recognized tribes, no fewer than 60 days before the application may be filed with the department.

(iii) The department may not review a project under the expedited process created in this section if a cultural resource site is identified at the project site or if an affected federally recognized tribe withholds its consent that the project should be expedited according to the process set forth in this section. Such consent may be withheld upon a determination that the project may adversely impact cultural resources. Notice of such a determination must be provided to the department by the affected federally recognized tribe in a timely manner.

(iv) In the event of an inadvertent discovery of cultural resources or human remains, the project applicant shall immediately notify the department, the department of archaeology and historic preservation, and affected federally recognized tribes. In the event of an inadvertent discovery of cultural resources or human remains, existing requirements applicable to inadvertent discoveries of cultural resources and human remains, including those set forth in chapters 27.53, 27.44, and 68.60 RCW, apply.

(d) For those projects that require a lease or other land use authorization from the department of natural resources, the project applicant must include in its application for a permit under this section a signed joint aquatic resources permit application, attachment E. The project applicant must provide a copy of a completed application to the department of natural resources no fewer than 30 days before the application may be filed with the department. The department of natural resources must make a final decision on applications for projects under this section within 30 days of the issuance of a permit under this section.

(3) Fish recovery and fish habitat restoration projects meeting the criteria of subsection (2) of this section are expected to result in beneficial impacts to the aquatic environment. Projects approved for inclusion in this pilot program and that are reviewed and approved according to the provisions of this section are not subject to the requirements of RCW 43.21C.030(2) and are not required to obtain local or

state permits or approvals other than the permit issued under this section, except permits minimally necessary as a requirement of participation in a federal program.

(4)(a) A permit under this chapter is required for projects that meet the criteria of subsection (2) of this section and must be reviewed and, if appropriate, approved under this section. An applicant shall use the department's online permitting system to apply for approval under this section and shall at the same time provide a copy of the application to the local government within whose geographical jurisdiction the project will be located, to the members of the multiagency permitting team created in this section, and to potentially affected federally recognized tribes.

(b) When the department concludes that a complete application has been submitted under this section and copies of the application have been provided as required in this section, the department shall provide notice to the local government within whose geographical jurisdiction the project will be located, to potentially affected federally recognized tribes, and to the members of the multiagency permitting team of receipt of a complete permit application.

(i) Unless the multiagency permitting team process described in this section is invoked, the department shall evaluate and make a decision on the application not sooner than 25 days, and not later than 45 days, after receipt of a complete permit application.

(ii) Within 25 days of receiving a copy of the complete project application, the local government within whose geographical jurisdiction the project would be located, any member of the multiagency permitting team, or a potentially affected federally recognized tribe may request that the department place the application on hold and immediately convene a meeting with the requesting entity and the multiagency permitting team to review and evaluate the project.

(iii) All parties involved in this review process shall work in good faith to expedite permitting and any party with concerns shall provide the basis for its concerns and potential pathways to address those concerns. Any party objecting to expedited permitting shall provide a written basis for its objections to the department or the multiagency permitting team.

(iv) The multiagency review process may not exceed 45 days from the request for review.

(c) The multiagency permitting team consists of representatives of the local government in whose geographical jurisdiction the project would be located, the department, the department of ecology, the recreation and conservation office, the governor's salmon recovery office, the department of natural resources, and, when the project in question is located in the Puget Sound basin, the Puget Sound partnership. For projects located in the Puget Sound basin, meetings of the multiagency permitting team must be facilitated by the Puget Sound partnership. All other meetings of the multiagency permitting team must be facilitated by the recreation and conservation office.

(d) The department or, where applicable, the multiagency permitting team, shall exclude any project from the review and approval process created by this section if it concludes that the project may adversely impact human health, public safety, or the environment, or that the project's scope or complexity renders it inappropriate for expedited review.

(e) If the department or the multiagency permitting team determines that the review and approval process created by this section is not appropriate for the proposed project, the department shall notify the applicant, the appropriate local government, and potentially affected federally recognized tribes of its determination. The applicant may reapply for approval of the project under generally applicable review and approval processes. If the multiagency permitting team determines that the review and approval process created by this section is appropriate for the proposed project, the hold on the application must be lifted and the department shall make a decision within the time that remains of the original 45-day decision deadline.

(f) Any person aggrieved by the approval, denial, conditioning, or modification of a permit under this section may appeal the decision as provided in RCW 77.55.021(8).

(g) The department shall, in a timely manner, provide a copy of any application seeking review under this section and shall thereafter coordinate with affected federally recognized tribes as it implements this section.

(5) No local or state government may require permits or charge fees other than the permit issued under this section, except permits minimally necessary as a requirement of participation in a federal program, for fish recovery pilot projects that meet the criteria of subsection (2) of this section and that are reviewed and approved according to the provisions of this section.

(6) No civil liability may be imposed by any court on the state or its officers and employees for any adverse impacts resulting from a fish recovery stimulus pilot project permitted by the department under the criteria of this section except upon proof of gross negligence or willful or wanton misconduct.

(7) This section expires June 30, 2025. [2021 c 75 § 2.]

Findings—Intent—2021 c 75: "The legislature finds that, particularly in times of economic hardship, it is in the interest of the citizens and natural resources of the state to promote and implement habitat restoration projects that have been determined to contribute to the recovery of watersheds throughout the state. The legislature further finds that habitat recovery projects that contribute to the recovery of orca, salmon, steelhead, bull trout, rock fish, and other fish species and habitat they rely on are particularly valuable. It is the legislature's intent that these projects advance to construction as quickly and efficiently as possible, thereby creating jobs and further bolstering the natural resources and natural resource economy of Washington." [2021 c 75 § 1.]

Chapter 77.57 RCW

FISHWAYS, FLOW, AND SCREENING

Sections

77.57.010	Fish guards required on diversion devices—Penalties, remedies for failure.
77.57.020	Review of permit applications to divert or store water—Water flow policy.
77.57.030	Fishways required in dams, obstructions—Penalties, remedies for failure.
77.57.040	Director may modify inadequate fishways and fish guards.
77.57.050	If fishway is impractical, fish hatchery or cultural facility may be provided in lieu.
77.57.060	Director may modify inadequate fishways and protective devices.
77.57.070	Diversion of water—Screen, bypass required.
77.57.080	Operation and maintenance of fish collection facility on Toutle river.

77.57.010 Fish guards required on diversion devices—Penalties, remedies for failure. (1) A diversion device used for conducting water from a lake, river, or stream for any purpose shall be equipped with a fish guard approved by the director to prevent the passage of fish into the diversion device. The fish guard shall be maintained at all times when water is taken into the diversion device. The fish guards shall be installed at places and times prescribed by the director upon thirty days' notice to the owner of the diversion device.

(2) Each day the diversion device is not equipped with an approved fish guard is a separate offense. If within thirty days after notice to equip a diversion device the owner fails to do so, the director may take possession of the diversion device and close the device until it is properly equipped. Expenses incurred by the department constitute the value of a lien upon the diversion device and upon the real and personal property of the owner. Notice of the lien shall be filed and recorded in the office of the county auditor of the county in which the action is taken. [2005 c 146 § 901; 1998 c 190 § 85; 1983 1st ex.s. c 46 § 70; 1955 c 12 § 75.20.040. Prior: 1949 c 112 § 45; Rem. Supp. 1949 § 5780-319. Formerly RCW 77.55.040, 75.20.040.]

Additional notes found at www.leg.wa.gov

77.57.020 Review of permit applications to divert or store water—Water flow policy. It is the policy of this state that a flow of water sufficient to support game fish and food fish populations be maintained at all times in the streams of this state.

The director of ecology shall give the director notice of each application for a permit to divert or store water. The director has thirty days after receiving the notice to state his or her objections to the application. The permit shall not be issued until the thirty-day period has elapsed.

The director of ecology may refuse to issue a permit if, in the opinion of the director of ecology, issuing the permit might result in lowering the flow of water in a stream below the flow necessary to adequately support food fish and game fish populations in the stream.

The provisions of this section shall in no way affect existing water rights. [2005 c 146 § 902; 1993 sp.s. c 2 § 29; 1988 c 36 § 32; 1986 c 173 § 7; 1983 1st ex.s. c 46 § 71; 1955 c 12 § 75.20.050. Prior: 1949 c 112 § 46; Rem. Supp. 1949 § 5780-320. Formerly RCW 77.55.050, 75.20.050.]

Additional notes found at www.leg.wa.gov

77.57.030 Fishways required in dams, obstructions—Penalties, remedies for failure. (1) Subject to subsection (3) of this section, a dam or other obstruction across or in a stream shall be provided with a durable and efficient fishway approved by the director. Plans and specifications shall be provided to the department prior to the director's approval. The fishway shall be maintained in an effective condition and continuously supplied with sufficient water to freely pass fish.

(2)(a) If a person fails to construct and maintain a fishway or to remove the dam or obstruction in a manner satisfactory to the director, then within thirty days after written notice to comply has been served upon the owner, his or her agent, or the person in charge, the director may construct a

fishway or remove the dam or obstruction. Expenses incurred by the department constitute the value of a lien upon the dam and upon the personal property of the person owning the dam. Notice of the lien shall be filed and recorded in the office of the county auditor of the county in which the dam or obstruction is situated. The lien may be foreclosed in an action brought in the name of the state.

(b) If, within thirty days after notice to construct a fishway or remove a dam or obstruction, the owner, his or her agent, or the person in charge fails to do so, the dam or obstruction is a public nuisance and the director may take possession of the dam or obstruction and destroy it. No liability shall attach for the destruction.

(3) For the purposes of this section, "other obstruction" does not include tide gates, flood gates, and associated man-made agricultural drainage facilities that were originally installed as part of an agricultural drainage system on or before May 20, 2003, or the repair, replacement, or improvement of such tide gates or flood gates. [2005 c 146 § 903; 2003 c 391 § 1; 1998 c 190 § 86; 1983 1st ex.s. c 46 § 72; 1955 c 12 § 75.20.060. Prior: 1949 c 112 § 47; Rem. Supp. 1949 § 5780-321. Formerly RCW 77.55.060, 75.20.060.]

Additional notes found at www.leg.wa.gov

77.57.040 Director may modify inadequate fishways and fish guards. If the director determines that a fishway or fish guard described in *RCW 77.55.040 and 77.55.060 and in existence on September 1, 1963, is inadequate, in addition to other authority granted in this chapter, the director may remove, relocate, reconstruct, or modify the device, without cost to the owner. The director shall not materially modify the amount of flow of water through the device. After the department has completed the improvements, the fishways and fish guards shall be operated and maintained at the expense of the owner in accordance with *RCW 77.55.040 and 77.55.060. [2000 c 107 § 14; 1983 1st ex.s. c 46 § 73; 1963 c 153 § 1. Formerly RCW 77.55.070, 75.20.061.]

*Reviser's note: RCW 77.55.040 and 77.55.060 were recodified as RCW 77.57.010 and 77.57.030, respectively, pursuant to 2005 c 146 § 1002.

Director of fish and wildlife may modify, etc., inadequate fishways and protective devices: RCW 77.57.060.

77.57.050 If fishway is impractical, fish hatchery or cultural facility may be provided in lieu. Before a person commences construction on a dam or other hydraulic project for which the director determines that a fishway is impractical, the person shall at the option of the director:

(1) Convey to the state a fish cultural facility on a site satisfactory to the director and constructed according to plans and specifications approved by the director, and enter into an agreement with the director secured by sufficient bond, to furnish water and electricity, without expense, and funds necessary to operate and maintain the facilities; or

(2) Enter into an agreement with the director secured by sufficient bond to make payments to the state as the director determines are necessary to expand, maintain, and operate additional facilities at existing hatcheries within a reasonable distance of the dam or other hydraulic work to compensate for the damages caused by the dam or other hydraulic work.

(3) A decision of the director under this section is subject to review in the superior court of the state for Thurston

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county. Each day that a person carries on construction work or operates a dam or hydraulic project without complying with this section is a separate offense. [1983 1st ex.s. c 46 § 74; 1955 c 12 § 75.20.090. Prior: 1949 c 112 § 48; Rem. Supp. 1949 § 5780-322. Formerly RCW 77.55.080, 75.20.090.]

77.57.060 Director may modify inadequate fishways and protective devices. The director may authorize removal, relocation, reconstruction, or other modification of an inadequate fishway or fish protective device required by *RCW 77.55.320 which device was in existence on September 1, 1963, without cost to the owner for materials and labor. The modification may not materially alter the amount of water flowing through the fishway or fish protective device. Following modification, the fishway or fish protective device shall be maintained at the expense of the person or governmental agency owning the obstruction or water diversion device. [2001 c 253 § 21; 1980 c 78 § 90; 1963 c 152 § 1. Formerly RCW 77.55.310, 77.12.425, 77.16.221.]

*Reviser's note: RCW 77.55.320 was recodified as RCW 77.57.070 pursuant to 2005 c 146 § 1002.

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

Director of fish and wildlife may modify inadequate fishways and fish guards: RCW 77.57.040.

77.57.070 Diversion of water—Screen, bypass required. (1) A person shall not divert water from a lake, river, or stream containing game fish unless the water diversion device is equipped at or near its intake with a fish guard or screen to prevent the passage of game fish into the device and, if necessary, with a means of returning game fish from immediately in front of the fish guard or screen to the waters of origin. A person who was, on June 11, 1947, otherwise lawfully diverting water from a lake, river, or stream shall not be deemed guilty of a violation of this section.

(2) Plans for the fish guard, screen, and bypass shall be approved by the director prior to construction. The installation shall be approved by the director prior to the diversion of water.

(3) The director or the director's designee may close a water diversion device operated in violation of this section and keep it closed until it is properly equipped with a fish guard, screen, or bypass. [2005 c 146 § 904; 2001 c 253 § 48; 1998 c 190 § 122; 1980 c 78 § 89; 1955 c 36 § 77.16.220. Prior: 1947 c 275 § 61; Rem. Supp. 1947 § 5992-70. Formerly RCW 77.55.320, 77.16.220.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

Additional notes found at www.leg.wa.gov

77.57.080 Operation and maintenance of fish collection facility on Toutle river. The legislature recognizes the need to mitigate the effects of sedimentary build-up and resultant damage to fish population in the Toutle river resulting from the Mt. St. Helens eruption. The state has entered into a contractual agreement with the United States army corps of engineers designed to minimize fish habitat disruption created by the sediment retention structure on the Toutle river, under which the corps has agreed to construct a fish

collection facility at the sediment retention structure site conditional upon the state assuming the maintenance and operation costs of the facility. The department shall operate and maintain a fish collection facility on the Toutle river. [1993 sp.s. c 2 § 39; 1988 c 36 § 39; 1987 c 506 § 101. Formerly RCW 77.55.240, 75.20.310.]

Legislative findings and intent—1987 c 506: See note following RCW 77.04.020.

Additional notes found at www.leg.wa.gov

Chapter 77.60 RCW SHELLFISH

Sections

77.60.010	State oyster reserves established.
77.60.020	Sale or lease of state oyster reserves.
77.60.030	State oyster reserves management policy—Personal use harvesting—Inventory—Management categories—Cultch permits.
77.60.040	Olympia oysters—Cultivation on reserves in Puget Sound.
77.60.050	Sale of shellfish from state oyster reserves.
77.60.060	Restricted shellfish areas—Infestations—Permit.
77.60.070	Geoduck clams, commercial harvesting—Unauthorized acts—Gear requirements.
77.60.080	Imported oyster seed—Permit and inspection required.
77.60.090	Imported oyster seed—Inspection—Costs.
77.60.100	Establishment of reserves on state shellfish lands.
77.60.150	Oyster reserve land—Pilot project—Advisory committee—Lease administration.
77.60.160	Oyster reserve land account.
77.60.170	Shellfish—On-site sewage grant program—Priority areas—Memorandum of understanding.

77.60.010 State oyster reserves established. The following areas are the state oyster reserves and are more completely described in maps and plats on file in the office of the commissioner of public lands and in the office of the auditor of the county in which the reserve is located:

1. PUGET SOUND OYSTER RESERVES:

- (a) Totten Inlet reserves (sometimes known as Oyster Bay reserves), located in Totten Inlet, Thurston county;
- (b) Eld Inlet reserves (sometimes known as Mud Bay reserves), located in Mud Bay, Thurston county;
- (c) Oakland Bay reserves, located in Oakland Bay, Mason county;
- (d) North Bay reserves (sometimes known as Case Inlet reserves), located in Case Inlet, Mason county.

2. WILLAPA HARBOR OYSTER RESERVES:

- (a) Nemah reserve, south and west sides of reserve located along Nemah River channel, Pacific county;
- (b) Long Island reserve, located at south end and along west side of Long Island, Willapa Harbor, Pacific county;
- (c) Long Island Slough reserve, located at south end and along east side of Long Island, Willapa Harbor, Pacific county;
- (d) Bay Center reserve, located in the Palix River channel, extending from Palix River bridge to beyond Bay Center to north of Goose Point, Willapa Harbor, Pacific county;
- (e) Willapa River reserve, located in the Willapa River channel extending west and up-river from a point approximately one-quarter mile from the blinker light marking the division of Willapa River channel and the North River channel, Willapa Harbor, Pacific county. [1983 1st ex.s. c 46 §

78; 1955 c 12 § 75.24.010. Prior: 1949 c 112 § 54; Rem. Supp. 1949 § 5780-01. Formerly RCW 75.24.010.]

77.60.020 Sale or lease of state oyster reserves. Only upon recommendation of the commission may the state oyster reserves be sold, leased, or otherwise disposed of by the department of natural resources. [1995 1st sp.s. c 2 § 28 (Referendum Bill No. 45, approved November 7, 1995); 1983 1st ex.s. c 46 § 79; 1955 c 12 § 75.24.030. Prior: 1949 c 112 § 55; Rem. Supp. 1949 § 5780-402. Formerly RCW 75.24.030.]

Additional notes found at www.leg.wa.gov

77.60.030 State oyster reserves management policy—Personal use harvesting—Inventory—Management categories—Cultch permits. It is the policy of the state to improve state oyster reserves so that they are productive and yield a revenue sufficient for their maintenance. In fixing the price of oysters and other shellfish sold from the reserves, the director shall take into consideration this policy. It is also the policy of the state to maintain the oyster reserves to furnish shellfish to growers and processors and to stock public beaches.

Shellfish may be harvested from state oyster reserves for personal use as prescribed by rule of the director.

The director shall periodically inventory the state oyster reserves and assign the reserve lands into management categories:

- (1) Native Olympia oyster broodstock reserves;
- (2) Commercial shellfish harvesting zones;
- (3) Commercial shellfish propagation zones designated for long-term leasing to private aquaculturists;
- (4) Public recreational shellfish harvesting zones;
- (5) Unproductive land.

The director shall manage each category of oyster reserve land to maximize the sustained yield production of shellfish consistent with the purpose for establishment of each management category.

The commission shall develop an oyster reserve management plan, to include recommendations for leasing reserve lands, in coordination with the shellfish industry, by January 1, 1986.

The director shall protect, reseed, improve the habitat of, and replant state oyster reserves. The director shall also issue cultch permits and oyster reserve fishery licenses. [2000 c 107 § 22; 1998 c 245 § 152; 1985 c 256 § 1; 1983 1st ex.s. c 46 § 81; 1969 ex.s. c 91 § 1; 1955 c 12 § 75.24.060. Prior: 1949 c 112 § 56; Rem. Supp. 1949 § 5780-403. Formerly RCW 75.24.060.]

77.60.040 Olympia oysters—Cultivation on reserves in Puget Sound. The legislature finds that current environmental and economic conditions warrant a renewal of the state's historical practice of actively cultivating and managing its oyster reserves in Puget Sound to produce the state's native oyster, the Olympia oyster. The director shall reestablish dike cultivated production of Olympia oysters on such reserves on a trial basis as a tool for planning more comprehensive cultivation by the state. [2000 c 107 § 23; 1993 sp.s. c 2 § 40; 1985 c 256 § 2. Formerly RCW 75.24.065.]

Additional notes found at www.leg.wa.gov

77.60.050 Sale of shellfish from state oyster reserves.

The director shall determine the time, place, and method of sale of oysters and other shellfish from state oyster reserves. Any person who commercially takes shellfish from state oyster reserves must possess an oyster reserve fishery license issued by the director pursuant to RCW 77.65.260. Any person engaged in the commercial cultching of oysters on state oyster reserves must possess an oyster cultch permit issued by the director pursuant to RCW 77.65.270.

To maintain local communities and industries and to restrain the formation of monopolies in the industry, the director shall determine the number of bushels which shall be sold to a person. When the shellfish are sold at public auction, the director may reject any and all bids. [2000 c 107 § 24; 1983 1st ex.s. c 46 § 82; 1955 c 12 § 75.24.070. Prior: 1949 c 112 § 57; Rem. Supp. 1949 § 5780-404. Formerly RCW 75.24.070.]

Oyster reserve fishery license: RCW 77.65.260.

77.60.060 Restricted shellfish areas—Infestations—

Permit. The director may designate as "restricted shellfish areas" those areas in which infection or infestation of shellfish is present. A permit issued by the director is required to transplant or transport into or out of a restricted area shellfish or equipment used in culturing, taking, handling, or processing shellfish. [1998 c 190 § 90; 1983 1st ex.s. c 46 § 83; 1955 c 12 § 75.24.080. Prior: 1949 c 112 § 59; Rem. Supp. 1949 § 5780-406. Formerly RCW 75.24.080.]

77.60.070 Geoduck clams, commercial harvesting—

Unauthorized acts—Gear requirements. (1) The director may not authorize a person to take geoduck clams for commercial purposes outside the harvest area designated in a current department of natural resources geoduck harvesting agreement issued under RCW 79.135.210. The director may not authorize commercial harvest of geoduck clams from bottoms that are shallower than eighteen feet below mean lower low water (0.0. ft.). Vessels conducting harvest operations must remain seaward of a line two hundred yards seaward from and parallel to the line of ordinary high tide. This section does not apply to the harvest of private sector cultured aquatic products as defined in RCW 15.85.020.

(2) Commercial geoduck harvesting shall be done with a handheld, manually operated water jet or suction device guided and controlled from under water by a diver. Periodically, the director shall determine the effect of each type or unit of gear upon the geoduck population or the substrate they inhabit. The director may require modification of the gear or stop its use if it is being operated in a wasteful or destructive manner or if its operation may cause permanent damage to the bottom or adjacent shellfish populations. [2006 c 144 § 1; 2000 c 107 § 25; 1998 c 190 § 91; 1995 1st sp.s. c 2 § 29 (Referendum Bill No. 45, approved November 7, 1995); 1993 c 340 § 51; 1984 c 80 § 2. Prior: 1983 1st ex.s. c 46 § 85; 1983 c 3 § 193; 1979 ex.s. c 141 § 1; 1969 ex.s. c 253 § 1. Formerly RCW 75.24.100.]

Finding, intent—Captions not law—Effective date—Severability—1993 c 340: See notes following RCW 77.65.010.

Designation of aquatic lands for geoduck harvesting: RCW 79.135.220.

Diver license for harvesting geoducks: RCW 77.65.410.

Additional notes found at www.leg.wa.gov

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77.60.080 Imported oyster seed—Permit and inspection required. The department may not authorize a person to import oysters or oyster seed into this state for the purpose of planting them in state waters without a permit from the director. The director shall issue a permit only after an adequate inspection has been made and the oysters or oyster seed are found to be free of disease, pests, and other substances which might endanger oysters in state waters. [1998 c 190 § 92; 1983 1st ex.s. c 46 § 87; 1955 c 12 § 75.08.054. Prior: 1951 c 271 § 42. Formerly RCW 75.24.110, 75.08.054.]

77.60.090 Imported oyster seed—Inspection—Costs.

The director may require imported oyster seed to be inspected for diseases and pests. The director may specify the place of inspection. Persons importing oyster seed shall pay for the inspection costs excluding the inspector's salary. The cost shall be determined by the director and prorated among the importers according to the number of cases of oyster seeds each imports. The director shall specify the time and manner of payment. [1983 1st ex.s. c 46 § 88; 1967 ex.s. c 38 § 1; 1955 c 12 § 75.08.056. Prior: 1951 c 271 § 43. Formerly RCW 75.24.120, 75.08.056.]

77.60.100 Establishment of reserves on state shellfish

lands. The commission may examine the clam, mussel, and oyster beds located on aquatic lands belonging to the state and request the commissioner of public lands to withdraw these lands from sale and lease for the purpose of establishing reserves or public beaches. The director shall conserve, protect, and develop these reserves and the oyster, shrimp, clam, and mussel beds on state lands. [2000 c 107 § 26; 1995 1st sp.s. c 2 § 30 (Referendum Bill No. 45, approved November 7, 1995); 1983 1st ex.s. c 46 § 89; 1955 c 12 § 75.08.060. Prior: 1949 c 112 § 7(5); Rem. Supp. 1949 § 5780-206(5). Formerly RCW 75.24.130, 75.08.060.]

Additional notes found at www.leg.wa.gov

77.60.150 Oyster reserve land—Pilot project—Advisory committee—Lease administration.

(1) The department shall initiate a pilot project to evaluate the feasibility and potential of intensively culturing shellfish on currently nonproductive oyster reserve land in Puget Sound. The pilot program shall include no fewer than three long-term lease agreements with commercial shellfish growers. Except as provided in subsection (3) of this section, revenues from the lease of such lands shall be deposited in the oyster reserve land account created in RCW 77.60.160.

(2) The department shall form one advisory committee each for the Willapa Bay oyster reserve lands and the Puget Sound oyster reserve lands. The advisory committees shall make recommendations on management practices to conserve, protect, and develop oyster reserve lands. The advisory committees may make recommendations regarding the management practices on oyster reserve lands, in particular to ensure that they are managed in a manner that will: (a) increase revenue through production of high-value shellfish; (b) not be detrimental to the market for shellfish grown on nonreserve lands; and (c) avoid negative impacts to existing shellfish populations. The advisory committees may also make recommendation on the distribution of funds in RCW 77.60.160(2)(a). The department shall attempt to structure

each advisory committee to include equal representation between shellfish growers that participate in reserve sales and shellfish growers that do not.

(3) The department of natural resources, in consultation with the department of fish and wildlife, shall administer the leases for oyster reserves entered into under this chapter. In administering the leases, the department of natural resources shall exercise its authority under RCW 79.135.300. Vacation of state oyster reserves by the department shall not be a requirement for the department of natural resources to lease any oyster reserves under this section. The department of natural resources may recover reasonable costs directly associated with the administration of the leases for oyster reserves entered into under this chapter. All administrative fees collected by the department of natural resources pursuant to this section shall be deposited into the resource management cost account established in RCW 79.64.020. The department may not assess charges to recover the costs of consulting with the department of natural resources under this subsection.

(4) The Puget Sound pilot program shall not include the culture of geoduck. [2009 c 333 § 23; 2001 c 273 § 1.]

77.60.160 Oyster reserve land account. (1) The oyster reserve land account is created in the state treasury. All receipts from revenues from the lease of land or sale of shellfish from oyster reserve lands must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only as provided in this section.

(2) Funds in the account shall be used for the purposes provided for in this subsection:

(a) Up to forty percent for:

(i) The management expenses incurred by the department that are directly attributable to the management of the oyster reserve lands; and

(ii) The expenses associated with new bivalve shellfish research and development activities at the Pt. Whitney and Nahcotta shellfish laboratories managed by the department. As used in this subsection, "new research and development activities" includes an emphasis on the control of aquatic nuisance species and burrowing shrimp. New research and development activities must be identified by the department and the appropriate oyster reserve advisory committee;

(b) Up to ten percent may be deposited into the state general fund; and

(c) Except as provided in subsection (3) of this section, all remaining funds in the account shall be used for the shellfish—on-site sewage grant program established in RCW 77.60.170.

(3)(a) No later than January 1st of each year, the department shall transfer up to fifty percent of the annual revenues generated in the preceding year from the Willapa harbor oyster reserve to the on-site sewage grant program established under RCW 77.60.170 as necessary to achieve a fund balance of one hundred thousand dollars.

(b) All remaining revenues received from the Willapa harbor oyster reserve shall be used to fund research activities as specified in subsection (2)(a) of this section. [2008 c 202 § 2; 2007 c 341 § 44; 2001 c 273 § 2.]

Additional notes found at www.leg.wa.gov

77.60.170 Shellfish—On-site sewage grant program—Priority areas—Memorandum of understanding. (1)(a) The department shall transfer the funds required by RCW 77.60.160 to the appropriate local governments. Pacific and Grays Harbor counties and Puget Sound shall manage their established shellfish—on-site sewage grant program. The local governments, in consultation with the department of health, shall use the provided funds as grants or loans to individuals for repairing or improving their on-site sewage systems. The grants or loans may be provided only in areas that have the potential to adversely affect water quality in commercial and recreational shellfish growing areas.

(b) A recipient of a grant or loan shall enter into an agreement with the appropriate local government to maintain the improved on-site sewage system according to specifications required by the local government.

(c) The department shall work closely with local governments and it shall be the goal of the department to attain geographic equity between Grays Harbor, Willapa Bay, and Puget Sound when making funds available under this program.

(d) For the purposes of this subsection, "geographic equity" means issuing on-site sewage grants or loans at a level that matches the funds generated from the oyster reserve lands in that area.

(2) In Puget Sound, the local governments shall give first priority to areas that are:

(a) Identified as "areas of special concern" under *WAC 246-272-01001;

(b) Included within a shellfish protection district under chapter 90.72 RCW; or

(c) Identified as a marine recovery area under chapter 70A.110 RCW.

(3) In Grays Harbor and Pacific counties, the local governments shall give first priority to preventing the deterioration of water quality in areas where commercial or recreational shellfish are grown.

(4) The department and each participating local government shall enter into a memorandum of understanding that will establish an applicant income eligibility requirement for individual grant applicants from within the jurisdiction and other mutually agreeable terms and conditions of the grant program.

(5) For the 2007-2009 biennium, from the funds received under this section, Pacific county shall transfer up to two hundred thousand dollars to the department. Upon receiving the funds from Pacific county, the department and the appropriate oyster reserve advisory committee under RCW 77.60.160 shall identify and execute specific research projects with those funds. [2021 c 65 § 82; 2008 c 202 § 1; 2007 c 341 § 43; 2001 c 273 § 3. Formerly RCW 70.118.140, 90.71.100.]

***Reviser's note:** WAC 246-272-01001 was repealed effective July 1, 2007. The term "areas of special concern" is defined in WAC 246-272B-01001.

Explanatory statement—2021 c 65: See note following RCW 53.54.030.

Additional notes found at www.leg.wa.gov

Chapter 77.65 RCW
FOOD FISH AND SHELLFISH—COMMERCIAL
LICENSES

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77.65.610	Crewmember license—Requirements—Rule making—Fee—Exemptions.
77.65.615	Commercial whale watching business license—Commercial whale watching operator license—Commercial whale watching kayak guide license—Fees—Definitions.
77.65.620	Commercial whale watching license—Adoption of rules—Analysis and report to the governor and the legislature—Definitions.

77.65.010 Required licenses—Exemption. (1) Except as otherwise provided by this title, a person must have a license issued by the director in order to engage in any of the following activities:

- (a) Commercially fish for or take food fish or shellfish;
- (b) Deliver from a commercial fishing vessel food fish or shellfish taken for commercial purposes in offshore waters. As used in this subsection, "deliver" means arrival at a place or port, and includes arrivals from offshore waters to waters within the state and arrivals from state or offshore waters;
- (c) Operate a charter boat or commercial fishing vessel engaged in a fishery;
- (d) Engage in wholesale buying, selling, dealing, processing, or brokering of raw or frozen fish or shellfish;
- (e) Sell his or her commercially harvested catch of fish or shellfish to anyone other than a licensed wholesale fish buyer within or outside the state; or
- (f) Act as a food fish guide or game fish guide for personal use, except that a charter boat license is required to operate a vessel from which a person may for a fee fish for food fish in state waters listed in RCW 77.65.150(4)(b).

(2) No person may engage in the activities described in subsection (1) of this section unless the licenses required by this title are in the person's possession, and the person is the named license holder or an alternate operator designated on the license and the person's license is not suspended.

(3) A valid Oregon license that is equivalent to a license under this title is valid in the concurrent waters of the Columbia river if the state of Oregon recognizes as valid the equivalent Washington license. The director may identify by rule what Oregon licenses are equivalent.

(4) No license is required for the production or harvesting of private sector cultured aquatic products as defined in RCW 15.85.020 or for the delivery, processing, or wholesaling of such aquatic products. However, if a means of identifying such products is required by rules adopted under RCW 15.85.060, the exemption from licensing requirements established by this subsection applies only if the aquatic products are identified in conformance with those rules. [2017 3rd sp.s. c 8 § 16; 2015 c 97 § 3; 2009 c 333 § 7; 2005 c 20 § 1; 1998 c 190 § 93; 1997 c 58 § 883; 1993 c 340 § 2; 1991 c 362 § 1; 1985 c 457 § 18; 1983 1st ex.s. c 46 § 101; 1959 c 309 § 2; 1955 c 12 § 75.28.010. Prior: 1949 c 112 § 73; Rem. Supp. 1949 § 5780-511. Formerly RCW 75.28.010.]

Finding—Intent—Effective date—2017 3rd sp.s. c 8: See notes following RCW 77.08.010.

Effective dates—Intent—1997 c 58: See notes following RCW 74.20A.320.

Finding—Intent—1993 c 340: "The legislature finds that the laws governing commercial fishing licensing in this state are highly complex and

increasingly difficult to administer and enforce. The current laws governing commercial fishing licenses have evolved slowly, one section at a time, over decades of contention and changing technology, without general consideration for how the totality fits together. The result has been confusion and litigation among commercial fishers. Much of the confusion has arisen because the license holder in most cases is a vessel, not a person. The legislature intends by this act to standardize licensing criteria, clarify licensing requirements, reduce complexity, and remove inequities in commercial fishing licensing. The legislature intends that the license fees stated in this act shall be equivalent to those in effect on January 1, 1993, as adjusted under section 19, chapter 316, Laws of 1989." [1993 c 340 § 1.]

Additional notes found at www.leg.wa.gov

77.65.020 Transfer of licenses—Restrictions—Fees—Inheritability. (1) Unless otherwise provided in this title, a license issued under this chapter is not transferable from the license holder to any other person. This may not be deemed to prohibit the granting or enforcement of a security interest in any such license.

(2) The following restrictions apply to transfers of commercial fishery licenses, salmon delivery licenses, and salmon charter licenses that are transferable between license holders:

(a) The license holder shall surrender the previously issued license to the department.

(b) The department shall complete no more than one transfer of the license in any seven-day period.

(c) The fee to transfer a license from one license holder to another is:

(i) The same as the license renewal fee if the license is not limited under chapter 77.70 RCW;

(ii) Three and one-half times the renewal fee if the license is not a commercial salmon license and the license is limited under chapter 77.70 RCW;

(iii) Fifty dollars if the license is a commercial salmon license and is limited under chapter 77.70 RCW; or

(iv) Five hundred dollars if the license is a Dungeness crab-coastal fishery license.

(d) In addition to the fees under (c) of this subsection, an application fee of one hundred five dollars applies to all commercial license transfers.

(3) A commercial license that is transferable under this title survives the death of the holder. Though such licenses are not personal property, they shall be treated as analogous to personal property for purposes of inheritance, intestacy, and enforcement of security interests pursuant to Title 62A RCW. Such licenses are subject to state laws governing wills, trusts, estates, intestate succession, and community property, except that such licenses are exempt from tax liens. The surviving spouse, estate, or beneficiary of the estate may apply for a renewal of the license. There is no fee for transfer of a license from a license holder to the license holder's surviving spouse or estate, or to a beneficiary of the estate.

(4) Transfer of a license under this section is subject to the approval of the department according to any rules the department may adopt. Any transfer of a license issued under this chapter without the written consent of each person holding a security interest in the license is void. [2019 c 200 § 2; 2017 3rd sp.s. c 8 § 17; 2011 c 339 § 15; 2000 c 107 § 28; 1997 c 418 § 1; 1995 c 228 § 1; 1993 sp.s. c 17 § 34. Formerly RCW 75.28.011.]

Finding—Intent—Effective date—2017 3rd sp.s. c 8: See notes following RCW 77.08.010.

[Title 77 RCW—page 98]

Effective date—2011 c 339: See note following RCW 43.84.092.

Finding—Contingent effective date—Severability—1993 sp.s. c 17: See notes following RCW 77.32.520.

Additional notes found at www.leg.wa.gov

77.65.030 Commercial licenses and permits—Application deadline—Exception. The application deadline for a commercial license or permit established in this chapter is December 31st of the calendar year for which the license or permit is sought. The department shall accept no license or permit applications after December 31st of the calendar year for which the license or permit is sought. The application deadline in this section does not apply to a license or permit that has not been renewed because of the death or incapacity of the license or permit holder. The license or permit holder's surviving spouse, estate, estate beneficiary, attorney-in-fact, or guardian must be given an additional one hundred eighty days to renew the license or permit. [2003 c 386 § 5; 2001 c 244 § 2; 1993 c 340 § 3; 1986 c 198 § 8; 1983 1st ex.s. c 46 § 103; 1981 c 201 § 1; 1965 ex.s. c 57 § 1; 1959 c 309 § 4; 1957 c 171 § 3. Formerly RCW 75.28.014.]

Findings—Intent—2003 c 386: See note following RCW 77.15.700.

Finding, intent—Captions not law—Effective date—Severability—1993 c 340: See notes following RCW 77.65.010.

Additional notes found at www.leg.wa.gov

77.65.040 Commercial licenses—Qualifications—Limited-entry license—Nonsalmon delivery license. (1) Except as otherwise provided in this title, a person may hold a commercial license established by this chapter.

(2) Except as otherwise provided in this title, an individual may hold a commercial license only if the individual is sixteen years of age or older and a bona fide resident of the United States.

(3) A corporation may hold a commercial license only if it is authorized to do business in this state.

(4) No person may hold a limited-entry license unless the person meets the qualifications that this title establishes for the license.

(5) The residency requirements in subsection (2) of this section do not apply to holders of nonsalmon delivery licenses. [2000 c 107 § 29; 1994 c 244 § 1; 1993 c 340 § 4; 1989 c 47 § 1; 1983 1st ex.s. c 46 § 104; 1963 c 171 § 1; 1955 c 12 § 75.28.020. Prior: 1953 c 207 § 9; 1949 c 112 § 63; Rem. Supp. 1949 § 5780-501. Formerly RCW 75.28.020.]

Finding, intent—Captions not law—Effective date—Severability—1993 c 340: See notes following RCW 77.65.010.

77.65.050 Application for commercial licenses and permits—Replacement. (1) Except as otherwise provided in this title, the director shall issue commercial licenses and permits to a qualified person upon receiving a completed application accompanied by the required fee.

(2) An application submitted to the department under this chapter shall contain the name and address of the applicant and any other information required by the department or this title. An applicant for a commercial fishery license or delivery license may designate a vessel to be used with the license. An applicant for a commercial fishery license or delivery license may also designate up to two alternate operators.

(2021 Ed.)

(3) An application submitted to the department under this chapter shall contain the applicant's declaration under penalty of perjury that the information on the application is true and correct.

(4) Upon issuing a commercial license under this chapter, the director shall assign the license a unique number that the license shall retain upon renewal. The department shall use the number to record any commercial catch under the license. This does not preclude the department from using other, additional, catch record methods.

(5) The fee to replace a license that has been lost or destroyed is twenty dollars. [1998 c 267 § 1; 1993 sp.s. c 17 § 44; (1993 c 340 § 5 repealed by 1993 sp.s. c 17 § 47); 1983 1st ex.s. c 46 § 105; 1959 c 309 § 7; 1955 c 12 § 75.28.030. Prior: 1953 c 207 § 2; 1949 c 112 § 65; Rem. Supp. 1949 § 5780-503. Formerly RCW 75.28.030.]

Finding—Contingent effective date—Severability—1993 sp.s. c 17: See notes following RCW 77.32.520.

Additional notes found at www.leg.wa.gov

77.65.060 No commercial fishery during year—License requirement waived or license fees refunded. If, for any reason, the department does not allow any opportunity for a commercial fishery during a calendar year, the director shall either: (1) Waive the requirement to obtain a license for that commercial fishery for that year; or (2) refund applicable license fees upon return of the license. [2000 c 107 § 30; 1995 c 227 § 1. Formerly RCW 75.28.034.]

77.65.070 Licensees subject to statute and rules—Expiration and renewal of licenses. (1) A commercial license issued under this chapter permits the license holder to engage in the activity for which the license is issued in accordance with this title and the rules of the department.

(2) Unless otherwise provided in this title or rules of the department, commercial licenses and permits issued under this chapter expire at midnight on December 31st of the calendar year for which they are issued. In accordance with this title, licenses may be renewed annually upon application and payment of the prescribed license fees. In accordance with RCW 77.65.030, the department must provide a license or permit holder's surviving spouse, estate, or estate beneficiary a reasonable opportunity to renew the license or permit. [2019 c 200 § 1; 2001 c 244 § 3; 1996 c 267 § 27; 1993 c 340 § 6; 1983 1st ex.s. c 46 § 108; 1955 c 212 § 2; 1955 c 12 § 75.28.040. Prior: 1949 c 112 § 64; Rem. Supp. 1949 § 5780-502. Formerly RCW 75.28.040.]

Intent—Effective date—1996 c 267: See notes following RCW 77.12.177.

Finding, intent—Captions not law—Effective date—Severability—1993 c 340: See notes following RCW 77.65.010.

77.65.080 License suspension—Noncompliance with support order—Reissuance. (1) The department shall immediately suspend the license of a person who has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order.

(2) A listing on the department of licensing's database that an individual's license is currently suspended pursuant to RCW 46.20.291(8) shall be prima facie evidence that the

individual is in noncompliance with a support order. Presentation of a written release issued by the department of social and health services or a court stating that the person is in compliance with an order shall serve as proof of compliance. [2000 c 107 § 31; 1997 c 58 § 882. Formerly RCW 75.28.042.]

Effective dates—Intent—1997 c 58: See notes following RCW 74.20A.320.

Additional notes found at www.leg.wa.gov

77.65.090 Vessel substitution—Fees. This section applies to all commercial fishery licenses, delivery licenses, and charter licenses, except for emergency salmon delivery licenses.

(1) The holder of a license subject to this section may substitute the vessel designated on the license or designate a vessel if none has previously been designated if the license holder:

(a) Surrenders the previously issued license to the department;

(b) Submits to the department an application that identifies the currently designated vessel, the vessel proposed to be designated, and any other information required by the department; and

(c) Pays to the department a fee of thirty-five dollars and an application fee of one hundred five dollars.

(2) Unless the license holder owns all vessels identified on the application described in subsection (1)(b) of this section or unless the vessel is designated on a Dungeness crab-coastal fishery license, the following restrictions apply to changes in vessel designation:

(a) The department shall change the vessel designation on the license no more than four times per calendar year.

(b) The department shall change the vessel designation on the license no more than once in any seven-day period. [2017 3rd sp.s. c 8 § 18; 2011 c 339 § 16; 1994 c 260 § 11; 1993 sp.s. c 17 § 45. Formerly RCW 75.28.044.]

Finding—Intent—Effective date—2017 3rd sp.s. c 8: See notes following RCW 77.08.010.

Effective date—2011 c 339: See note following RCW 43.84.092.

Finding—Severability—1994 c 260: See notes following RCW 77.70.280.

Finding—Contingent effective date—Severability—1993 sp.s. c 17: See notes following RCW 77.32.520.

Additional notes found at www.leg.wa.gov

77.65.100 Vessel designation. (1) This section applies to all commercial fishery licenses, delivery licenses, and charter licenses.

(2) An applicant for a license subject to this section may designate a vessel to be used with the license. Except for emergency salmon delivery licenses, the director may issue a license regardless of whether the applicant designates a vessel. An applicant may designate no more than one vessel on a license subject to this section.

(3) A license for a fishery that requires a vessel authorizes no taking or delivery of food fish or shellfish unless a vessel is designated on the license. A delivery license authorizes no delivery of food fish or shellfish unless a vessel is designated on the license.

(4) No vessel may be designated on more than one commercial fishery license unless the licenses are for different fisheries, except:

(a) The same vessel may be designated on two of the following licenses, provided the licenses are owned by the same licensee:

- (i) Shrimp pot-Puget Sound fishery license;
- (ii) Sea cucumber dive fishery license; and
- (iii) Sea urchin dive fishery license.

(b) Subject to the provisions of RCW 77.65.130, the same vessel may be designated on three Puget Sound Dungeness crab fishery licenses issued pursuant to RCW 77.70.110.

(5) No vessel may be designated on more than one delivery license, on more than one salmon charter license, or on more than one nonsalmon charter license. [2013 c 288 § 1; 2005 c 82 § 1; 2001 c 105 § 3; 1998 c 190 § 94; 1993 c 340 § 7. Formerly RCW 75.28.045.]

Finding, intent—Captions not law—Effective date—Severability—1993 c 340: See notes following RCW 77.65.010.

77.65.110 Alternate operator designation—Fees. This section applies to all commercial fishery licenses and delivery licenses.

(1) A person designated as an alternate operator must possess an alternate operator license issued under RCW 77.65.130, and be designated on the fishery license prior to engaging in the activities authorized by the license. The holder of the commercial fishery license or delivery license may designate up to two alternate operators for the license, except:

(a) Whiting—Puget Sound fishery licensees may not designate alternate operators;

(b) Emergency salmon delivery licensees may not designate alternate operators;

(c) Shrimp pot-Puget Sound fishery licensees may designate no more than one alternate operator at a time; and

(d) Shrimp trawl-Puget Sound fishery licensees may designate no more than one alternate operator at a time.

(2) The fee to change the alternate operator designation is twenty-two dollars in addition to the application fee of one hundred five dollars.

(3) An alternate operator license is not required for an individual to operate a vessel designated as a charter boat under a charter boat license. [2017 3rd sp.s. c 8 § 19; 2011 c 339 § 17; 2001 c 105 § 4; 2000 c 107 § 32; 1998 c 267 § 2; 1994 c 260 § 12; 1993 c 340 § 9. Formerly RCW 75.28.046.]

Finding—Intent—Effective date—2017 3rd sp.s. c 8: See notes following RCW 77.08.010.

Effective date—2011 c 339: See note following RCW 43.84.092.

Finding—Severability—1994 c 260: See notes following RCW 77.70.280.

Finding, intent—Captions not law—Effective date—Severability—1993 c 340: See notes following RCW 77.65.010.

Additional notes found at www.leg.wa.gov

77.65.120 Sale or delivery of fish or shellfish by fishery license holder and alternate operators—Conditions—License with a limited fish seller endorsement. (1) Only the fishery license holder and any alternate operators designated on the license may sell or deliver fish or shellfish under a commercial fishery license or delivery license. A commercial

fishery license or delivery license authorizes no taking or delivery of fish or shellfish unless the license holder or an alternate operator designated on the license is present or aboard the vessel.

(2) Only the fishery license holder and any alternate operator designated on a license with a limited fish seller endorsement under RCW 77.65.510 may sell the licensee's commercially harvested catch directly to consumers at retail. [2017 3rd sp.s. c 8 § 20; 2000 c 107 § 33; 1998 c 267 § 3; 1993 c 340 § 10. Formerly RCW 75.28.047.]

Finding—Intent—Effective date—2017 3rd sp.s. c 8: See notes following RCW 77.08.010.

Finding, intent—Captions not law—Effective date—Severability—1993 c 340: See notes following RCW 77.65.010.

Additional notes found at www.leg.wa.gov

77.65.130 Vessel operation—License designation—Alternate operator license required. (1) A person who holds a commercial fishery license or a delivery license may operate the vessel designated on the license. A person who is not the license holder may operate the vessel designated on the license only if:

(a) The person holds an alternate operator license issued by the director; and

(b) The person is designated as an alternate operator on the underlying commercial fishery license or delivery license under RCW 77.65.110.

(2) Only an individual at least sixteen years of age may hold an alternate operator license.

(3) No individual may hold more than one alternate operator license. An individual who holds an alternate operator license may be designated as an alternate operator on an unlimited number of commercial fishery licenses or delivery licenses under RCW 77.65.110.

(4) An individual who holds multiple Dungeness crab—Puget Sound fishery licenses issued pursuant to RCW 77.70.110 may operate the licenses on one vessel if the license holder or alternate operator is on the vessel. The department shall allow a license holder to operate up to one hundred crab pots for each license.

(5) Two persons owning separate Dungeness crab—Puget Sound fishery licenses may operate their licenses on one vessel if the license holders or their alternate operators are on the vessel.

(6) As used in this section, to "operate" means to control the deployment or removal of fishing gear from state waters while aboard a vessel or to operate a vessel delivering food fish or shellfish taken in offshore waters to a port within the state. [2013 c 288 § 2; 2005 c 82 § 2; 2000 c 107 § 34; 1998 c 267 § 4; 1997 c 233 § 2; 1993 c 340 § 25. Formerly RCW 75.28.048.]

Finding, intent—Captions not law—Effective date—Severability—1993 c 340: See notes following RCW 77.65.010.

Additional notes found at www.leg.wa.gov

77.65.140 Alternate operators—Increase for certain licenses. The director may, by rule, increase the number of alternate operators beyond the level authorized by RCW 77.65.050 and 77.65.110 for a commercial fishery license, delivery license, or charter license. [2000 c 107 § 35; 1997 c 421 § 1. Formerly RCW 75.28.055.]

77.65.150 Licenses and permits—Fees—"Charter boat" defined—Oregon charter boats—Salmon charter license renewal. (1) The licenses and permits and their annual license fees, application fees, and surcharges are:

License or Permit	Annual Fee (RCW 77.95.090 Surcharge) (RCW 77.12.702 Surcharge)		Application Fee	Governing Section
	Resident	Nonresident		
(a) Non-salmon charter	\$375 (plus \$35 for RCW 77.12.702 Surcharge)	\$760 (plus \$35 for RCW 77.12.702 Surcharge)	\$ 70	
(b) Salmon charter	\$460 (plus \$100 plus \$35 for RCW 77.12.702 Surcharge)	\$845 (plus \$100 plus \$35 for RCW 77.12.702 Surcharge)	\$105	RCW 77.70.050
(c) Salmon angler	\$ 0	\$ 0	\$ 0	RCW 77.70.060

(2) A salmon charter license designating a vessel is required to operate a charter boat from which persons may, for a fee, fish for salmon, other fish, and shellfish. The director may issue a salmon charter license only to a person who meets the qualifications of RCW 77.70.050.

(3) A nonsalmon charter license designating a vessel is required to operate a charter boat from which persons may, for a fee, fish for shellfish and fish other than salmon or albacore tuna.

(4)(a) "Charter boat" means a vessel from which persons may, for a fee, fish for food fish or shellfish for personal use in those state waters set forth in (b) of this subsection. "Charter boat" also means a vessel from which persons may, for a fee, fish for fish or shellfish for personal use in offshore waters or in the waters of other states. The director may specify by rule when a vessel is a "charter boat" within this definition.

(b) A person may not operate a vessel from which persons may, for a fee, fish for food fish or shellfish in Puget Sound, Grays Harbor, Willapa Bay, Pacific Ocean waters, Lake Washington, or the Columbia river below the bridge at Longview unless the vessel is designated on a charter boat license.

(5) A charter boat licensed in Oregon may fish without a Washington charter license under the same rules as Washington charter boat operators in ocean waters within the jurisdiction of Washington state from the southern border of the state of Washington to Leadbetter Point, as long as the Oregon vessel does not take on or discharge passengers for any purpose from any Washington port, the Washington shore, or a dock, landing, or other point in Washington. The provisions of this subsection shall be in effect as long as the state of Oregon has reciprocal laws and regulations.

(6) A salmon charter license under subsection (1)(b) of this section may be renewed if the license holder notifies the department by May 1st of that year that he or she will not participate in the fishery during that calendar year. The license holder must pay the one hundred dollar enhancement surcharge, a thirty-five dollar surcharge to be deposited in the rockfish research account created in RCW 77.12.702, plus a one hundred five dollar application fee, in order to be considered a valid renewal and eligible to renew the license the fol-

lowing year. [2018 c 235 § 1; 2017 3rd sp.s. c 8 § 21; 2011 c 339 § 18; 2007 c 442 § 3; 2006 c 186 § 1; 2000 c 107 § 36; 1998 c 190 § 95; 1997 c 76 § 2; 1995 c 104 § 1; 1993 sp.s. c 17 § 41. Prior: (1993 c 340 § 21 repealed by 1993 sp.s. c 17 § 47); 1989 c 316 § 2; 1989 c 147 § 1; 1989 c 47 § 2; 1988 c 9 § 1; 1983 1st ex.s. c 46 § 112; 1979 c 60 § 1; 1977 ex.s. c 327 § 5; 1971 ex.s. c 283 § 15; 1969 c 90 § 1. Formerly RCW 75.28.095.]

Effective date—2018 c 235: "Sections 1 through 8 and 10 through 13 of this act take effect January 1, 2019." [2018 c 235 § 15.]

Finding—Intent—Effective date—2017 3rd sp.s. c 8: See notes following RCW 77.08.010.

Effective date—2011 c 339: See note following RCW 43.84.092.

Findings—Intent—Effective date—2007 c 442: See notes following RCW 77.12.702.

Finding—Contingent effective date—Severability—1993 sp.s. c 17: See notes following RCW 77.32.520.

Legislative intent—Funding of salmon enhancement facilities—Use of license fees—1977 ex.s. c 327: "The long range economic development goals for the state of Washington shall include the restoration of salmon runs to provide an increased supply of this valuable renewable resource for the benefit of commercial and recreational users and the economic well-being of the state. For the purpose of providing funds for the planning, acquisition, construction, improvement, and operation of salmon enhancement facilities within the state it is the intent of the legislature that the revenues received from fees from the issuance of vessel delivery permits, charter boat licenses, trolling gear licenses, gill net gear licenses, purse seine gear licenses, reef net gear licenses, anadromous salmon angling licenses and all moneys received from all privilege fees and fish sales taxes collected on fresh or frozen salmon or parts thereof be utilized to fund such costs.

The salmon enhancement program funded by commercial and recreational fishing fees and taxes shall be for the express benefit of all persons whose fishing activities fall under the management authority of the Washington department of fisheries and who actively participate in the funding of the enhancement costs through the fees and taxes set forth in chapters 75.28 and 82.27 RCW or through other adequate funding methods." [1980 c 98 § 8; 1977 ex.s. c 327 § 1. Formerly RCW 75.18.100.]

Limitation on issuance of salmon charter boat licenses: RCW 77.70.050.

Salmon charter boats—Angler permit, when required: RCW 77.70.060.

Additional notes found at www.leg.wa.gov

77.65.160 Commercial salmon fishery licenses—Gear and geographic designations—Fees. (1) The following commercial salmon fishery licenses are required for the license holder to use the specified gear to fish for salmon in state waters. Only a person who meets the qualifications of RCW 77.70.090 may hold a license listed in this subsection. The licenses and their annual license fees, application fees, and surcharges under RCW 77.95.090 are:

	Fishery License	Resident Fee	Nonresident Fee	Surcharge	Application Fee
(a)	Salmon Gill Net—Grays Harbor-Columbia river	\$380	\$765	plus \$100	\$105
(b)	Salmon Gill Net—Puget Sound	\$380	\$765	plus \$100	\$105
(c)	Salmon Gill Net—Willapa Bay-Columbia river	\$380	\$765	plus \$100	\$105

	Fishery License	Resident Fee	Nonresident Fee	Surcharge	Application Fee
(d)	Salmon purse seine	\$545	\$930	plus \$100	\$105
(e)	Salmon reef net	\$380	\$765	plus \$100	\$105
(f)	Salmon troll	\$380	\$765	plus \$100	\$105

(2) A license issued under this section authorizes no taking or delivery of salmon or other food fish unless a vessel is designated under RCW 77.65.100.

(3) Holders of commercial salmon fishery licenses may retain incidentally caught food fish other than salmon, subject to rules of the department.

(4) A salmon troll license includes a salmon delivery license.

(5) A salmon gill net license authorizes the taking of salmon only in the geographical area for which the license is issued. The geographical designations in subsection (1) of this section have the following meanings:

(a) "Puget Sound" includes waters of the Strait of Juan de Fuca, Georgia Strait, Puget Sound and all bays, inlets, canals, coves, sounds, and estuaries lying easterly and southerly of the international boundary line and a line at the entrance to the Strait of Juan de Fuca projected northerly from Cape Flattery to the lighthouse on Tatoosh Island and then to Bonilla Point on Vancouver Island.

(b) "Grays Harbor-Columbia river" includes waters of Grays Harbor and tributary estuaries lying easterly of a line projected northerly from Point Chehalis Light to Point Brown and those waters of the Columbia river and tributary sloughs and estuaries easterly of a line at the entrance to the Columbia river projected southerly from the most westerly point of the North jetty to the most westerly point of the South jetty.

(c) "Willapa Bay-Columbia river" includes waters of Willapa Bay and tributary estuaries and easterly of a line projected northerly from Leadbetter Point to the Cape Shoalwater tower and those waters of the Columbia river and tributary sloughs described in (b) of this subsection.

(6) A commercial salmon troll fishery license may be renewed under this section if the license holder notifies the department by May 1st of that year that he or she will not participate in the fishery during that calendar year. A commercial salmon gill net, reef net, or seine fishery license may be renewed under this section if the license holder notifies the department before the third Monday in September of that year that he or she will not participate in the fishery during that calendar year. The license holder must pay the one hundred dollar enhancement surcharge, plus a one hundred five dollar application fee before the third Monday in September, in order to be considered a valid renewal and eligible to renew the license the following year.

(7) Notwithstanding the annual license fees and surcharges established in subsection (1) of this section, a person who holds a resident commercial salmon fishery license shall pay an annual license fee of one hundred dollars plus the surcharge and application fee if all of the following conditions are met:

(a) The license holder is at least seventy-five years of age;

(b) The license holder owns a fishing vessel and has fished with a resident commercial salmon fishery license for at least thirty years; and

(c) The commercial salmon fishery license is for a geographical area other than the Puget Sound.

An alternate operator may not be designated for a license renewed at the one hundred dollar annual fee under this subsection (7). [2018 c 235 § 2; 2017 3rd sp.s. c 8 § 22; 2011 c 339 § 19; 2001 c 244 § 1; 2000 c 107 § 37; 1997 c 76 § 1; 1996 c 267 § 28; 1993 sp.s. c 17 § 35; (1993 c 340 § 12 repealed by 1993 sp.s. c 17 § 47); 1989 c 316 § 3; 1985 c 107 § 1; 1983 1st ex.s. c 46 § 113; 1965 ex.s. c 73 § 2; 1959 c 309 § 10; 1955 c 12 § 75.28.110. Prior: 1951 c 271 § 9; 1949 c 112 § 69(1); Rem. Supp. 1949 § 5780-507(1). Formerly RCW 75.28.110.]

Effective date—2018 c 235: See note following RCW 77.65.150.

Finding—Intent—Effective date—2017 3rd sp.s. c 8: See notes following RCW 77.08.010.

Effective date—2011 c 339: See note following RCW 43.84.092.

Intent—Effective date—1996 c 267: See notes following RCW 77.12.177.

Finding—Contingent effective date—Severability—1993 sp.s. c 17: See notes following RCW 77.32.520.

Limitations on issuance of commercial salmon fishing licenses: RCW 77.70.090.

Additional notes found at www.leg.wa.gov

77.65.170 Salmon delivery license—Fees—Restrictions—Revocation. (1) A salmon delivery license is required for a commercial fishing vessel to deliver salmon taken for commercial purposes in offshore waters to a place or port in the state. As used in this section, "deliver" and "delivery" mean arrival at a place or port, and include arrivals from offshore waters to waters within the state and arrivals ashore from offshore waters. The annual fee for a salmon delivery license is four hundred thirty dollars for residents and eight hundred fifteen dollars for nonresidents. The application fee for a salmon delivery license is one hundred five dollars. The annual surcharge under RCW 77.95.090 is one hundred dollars for each license. Holders of nonlimited entry delivery licenses issued under RCW 77.65.210 may apply the nonlimited entry delivery license fee against the salmon delivery license fee.

(2) Only a person who meets the qualifications established in RCW 77.70.090 may hold a salmon delivery license issued under this section.

(3) A salmon delivery license authorizes no taking of salmon or other fish or shellfish from the waters of the state.

(4) If the director determines that the operation of a vessel under a salmon delivery license results in the depletion or destruction of the state's salmon resource or the delivery into this state of salmon products prohibited by law, the director may revoke the license under the procedures of chapter 34.05 RCW. [2018 c 235 § 3; 2017 3rd sp.s. c 8 § 23; 2011 c 339 § 20; 2005 c 20 § 2; 2000 c 107 § 38; 1998 c 190 § 96; 1994 c 260 § 22; 1993 sp.s. c 17 § 36; (1993 c 340 § 13 repealed by 1993 sp.s. c 17 § 47); 1989 c 316 § 4; 1983 1st ex.s. c 46 § 115; 1977 ex.s. c 327 § 3; 1971 ex.s. c 283 § 1; 1955 c 12 § 75.18.080. Prior: 1953 c 147 § 9. Formerly RCW 75.28.113, 75.18.080.]

Effective date—2018 c 235: See note following RCW 77.65.150.

Finding—Intent—Effective date—2017 3rd sp.s. c 8: See notes following RCW 77.08.010.

Effective date—2011 c 339: See note following RCW 43.84.092.

Finding—Severability—1994 c 260: See notes following RCW 77.70.280.

Finding—Contingent effective date—Severability—1993 sp.s. c 17: See notes following RCW 77.32.520.

Legislative intent—Funding of salmon enhancement facilities—Use of license fees—Severability—Effective date—1977 ex.s. c 327: See notes following RCW 77.65.150.

Limitations on issuance of salmon delivery licenses: RCW 77.70.090.

Additional notes found at www.leg.wa.gov

77.65.180 Oregon, California harvested salmon—Landing in Washington ports encouraged. (1) The legislature finds that landing salmon into the ports of Washington state, regardless of where such salmon have been harvested, is economically beneficial to those ports as well as to the citizens of the state of Washington. It is therefore the intent of the legislature to encourage this practice.

(2) Notwithstanding the provisions of RCW 77.65.010(1)(b) and 77.65.170, a Washington citizen who holds a valid Oregon or California salmon troll license may land salmon taken during lawful seasons in Oregon and California into Washington ports without obtaining a salmon delivery license. This exception is valid only when the salmon were taken in offshore waters south of Cape Falcon.

(3) The department shall adopt rules necessary to implement this section, including rules identifying the appropriate methods for verifying that salmon were in fact taken south of Cape Falcon. [2000 c 107 § 39; 1999 c 103 § 1. Formerly RCW 75.28.114.]

77.65.190 Emergency salmon delivery license—Fees—Nontransferable, nonrenewable. A person who does not qualify for a license under RCW 77.70.090 shall obtain a nontransferable emergency salmon delivery license to make one delivery from a commercial fishing vessel of salmon taken for commercial purposes in offshore waters. As used in this section, "delivery" means arrival at a place or port, and include arrivals from offshore waters to waters within the state and arrivals ashore from offshore waters. The

director shall not issue an emergency salmon delivery license unless, as determined by the director, a bona fide emergency exists. The license fee is two hundred seventy-five dollars for residents and six hundred sixty dollars for nonresidents. The application fee is one hundred five dollars. An applicant for an emergency salmon delivery license shall designate no more than one vessel that will be used with the license. Alternate operator licenses are not required of persons delivering salmon under an emergency salmon delivery license. Emergency salmon delivery licenses are not renewable. [2018 c 235 § 4; 2017 3rd sp.s. c 8 § 24; 2011 c 339 § 21; 2005 c 20 § 3; 2000 c 107 § 40; 1993 sp.s. c 17 § 37; (1993 c 340 § 14 repealed by 1993 sp.s. c 17 § 47); 1989 c 316 § 5; 1984 c 80 § 1. Prior: 1983 1st ex.s. c 46 § 116; 1983 c 297 § 1; 1977 ex.s. c 327 § 4; 1974 ex.s. c 184 § 3. Formerly RCW 75.28.116, 75.28.460.]

Effective date—2018 c 235: See note following RCW 77.65.150.

Finding—Intent—Effective date—2017 3rd sp.s. c 8: See notes following RCW 77.08.010.

Effective date—2011 c 339: See note following RCW 43.84.092.

Finding—Contingent effective date—Severability—1993 sp.s. c 17: See notes following RCW 77.32.520.

Legislative intent—Funding of salmon enhancement facilities—Use of license fees—Severability—Effective date—1977 ex.s. c 327: See notes following RCW 77.65.150.

Legislative intent—Severability—1974 ex.s. c 184: See notes following RCW 77.70.090.

Additional notes found at www.leg.wa.gov

77.65.200 Commercial fishery licenses for food fish fisheries—Fees—Rules for species, gear, and areas. (1) This section establishes commercial fishery licenses required for food fish fisheries and the annual fees for those licenses. As used in this section, "food fish" does not include salmon. The director may issue a limited-entry commercial fishery license only to a person who meets the qualifications established in applicable governing sections of this title.

Fishery (Governing section(s))	Annual Fee		Application Fee	Vessel Required?	Limited Entry?
	Resident	Nonresident			
(a) Baitfish Lampara	\$335	\$720	\$ 70	Yes	No
(b) Baitfish purse seine	\$380	\$765	\$ 70	Yes	No
(c) Bottom fish jig	\$180	\$565	\$ 70	Yes	No
(d) Bottom fish pot	\$180	\$565	\$ 70	Yes	No
(e) Bottom fish troll	\$180	\$565	\$ 70	Yes	No
(f) Carp	\$180	\$565	\$ 70	No	No
(g) Columbia river smelt	\$430	\$815	\$ 70	No	No
(h) Emerging commercial fishery (RCW 77.70.160 and 77.65.400)	\$335	\$720	\$105	Determined by rule	Determined by rule
(i) Food fish drag seine	\$180	\$565	\$ 70	Yes	No
(j) Food fish set line	\$180	\$565	\$ 70	Yes	No
(k) Herring dip bag net (RCW 77.70.120)	\$325	\$710	\$ 70	Yes	Yes
(l) Herring drag seine (RCW 77.70.120)	\$325	\$710	\$ 70	Yes	Yes
(m) Herring gill net (RCW 77.70.120)	\$325	\$710	\$105	Yes	Yes
(n) Herring Lampara (RCW 77.70.120)	\$325	\$710	\$ 70	Yes	Yes
(o) Herring purse seine	\$325	\$710	\$105	Yes	Yes

(RCW 77.70.120)

(p) Herring spawn-on-kelp (RCW 77.70.210)	N/A	N/A	N/A	Yes	Yes
(q) Sardine purse seine (RCW 77.70.480)	\$335	\$720	\$105	Yes	Yes
(r) Sardine purse seine temporary (RCW 77.70.480)	\$335	\$720	\$105	Yes	No
(s) Smelt dip bag net	\$180	\$565	\$ 70	No	No
(t) Smelt gill net	\$430	\$815	\$ 70	Yes	No
(u) Whiting-Puget Sound (RCW 77.70.130)	\$345	\$730	\$105	Yes	Yes

(2) The director may by rule determine the species of food fish that may be taken with the commercial fishery licenses established in this section, the gear that may be used with the licenses, and the areas or waters in which the licenses may be used. Where a fishery license has been established for a particular species, gear, geographical area, or combination thereof, a more general fishery license may not be used to take food fish in that fishery. [2018 c 235 § 5; 2017 3rd sp.s. c 8 § 25; 2011 c 339 § 22; 2009 c 331 § 4; 2000 c 107 § 41; 1993 sp.s. c 17 § 38; (1993 c 340 § 15 repealed by 1993 sp.s. c 17 § 47); 1989 c 316 § 6; 1983 1st ex.s. c 46 § 117; 1965 ex.s. c 73 § 3; 1959 c 309 § 11; 1955 c 12 § 75.28.120. Prior: 1951 c 271 § 10; 1949 c 112 § 69(2); Rem. Supp. 1949 § 5780-507(2). Formerly RCW 75.28.120.]

Effective date—2018 c 235: See note following RCW 77.65.150.

Finding—Intent—Effective date—2017 3rd sp.s. c 8: See notes following RCW 77.08.010.

Effective date—2011 c 339: See note following RCW 43.84.092.

Finding—Contingent effective date—Severability—1993 sp.s. c 17: See notes following RCW 77.32.520.

Limitation on commercial herring fishing: RCW 77.70.120.

Additional notes found at www.leg.wa.gov

77.65.210 Nonlimited entry delivery license—Exceptions—Fees. (1) Except as provided in subsection (2) of this section, a person may not use a commercial fishing vessel to deliver food fish or shellfish taken for commercial purposes in offshore waters to a port in the state without a nonlimited entry delivery license. As used in this section, "deliver" and "delivery" mean arrival at a place or port, and include arrivals from offshore waters to waters within the state and arrivals ashore from offshore waters. As used in this section, "food fish" does not include salmon. As used in this section, "shellfish" does not include ocean pink shrimp, coastal crab, coastal spot shrimp, or fish or shellfish taken under an emerging commercial fisheries license if taken from offshore waters. The annual license fee for a nonlimited entry delivery license is two hundred sixty dollars for residents and six hundred forty-five dollars for nonresidents, and an additional thirty-five dollar surcharge for both residents and nonresidents to be deposited in the rockfish research account created in RCW 77.12.702. The application fee for a nonlimited entry delivery license is one hundred five dollars.

Fishery (Governing section(s))	Annual Fee		Application Fee	Vessel Required?	Limited Entry?
	Resident	Nonresident			
(a) Burrowing shrimp	\$235	\$620	\$105	Yes	No
(b) Crab ring net- Puget Sound	\$180	\$565	\$ 70	Yes	No
(c) Dungeness crab-coastal (RCW 77.70.280)	\$345	\$730	\$105	Yes	Yes

(2) Holders of the following licenses may deliver food fish or shellfish taken in offshore waters without a nonlimited entry delivery license: Salmon troll fishery licenses issued under RCW 77.65.160; salmon delivery licenses issued under RCW 77.65.170; crab pot fishery licenses issued under RCW 77.65.220; food fish trawl—Non-Puget Sound fishery licenses, and emerging commercial fishery licenses issued under RCW 77.65.200; Dungeness crab—coastal fishery licenses; ocean pink shrimp delivery licenses; Washington coastal spot shrimp pot fishery licenses issued under chapter 77.70 RCW; and emerging commercial fishery licenses issued under RCW 77.65.220.

(3) A nonlimited entry delivery license authorizes no taking of fish or shellfish from state waters. [2018 c 235 § 6; 2017 3rd sp.s. c 8 § 26. Prior: 2011 c 339 § 23; 2011 c 147 § 3; 2007 c 442 § 4; 2005 c 20 § 4; 2000 c 107 § 42; 1998 c 190 § 97; 1994 c 260 § 21; prior: 1993 sp.s. c 17 § 39; 1993 c 376 § 3; (1993 c 340 § 16 repealed by 1993 sp.s. c 17 § 47); 1989 c 316 § 7; 1983 1st ex.s. c 46 § 119; 1971 ex.s. c 283 § 5; 1965 ex.s. c 73 § 1; 1959 c 309 § 5. Formerly RCW 75.28.125, 75.28.085.]

Effective date—2018 c 235: See note following RCW 77.65.150.

Finding—Intent—Effective date—2017 3rd sp.s. c 8: See notes following RCW 77.08.010.

Effective date—2011 c 339: See note following RCW 43.84.092.

Findings—Intent—Effective date—2007 c 442: See notes following RCW 77.12.702.

Finding—Severability—1994 c 260: See notes following RCW 77.70.280.

Finding—Contingent effective date—Severability—1993 sp.s. c 17: See notes following RCW 77.32.520.

Findings—Effective date—1993 c 376: See notes following RCW 77.65.380.

Additional notes found at www.leg.wa.gov

77.65.220 Commercial fishery licenses for shellfish fisheries—Fees—Rules for species, gear, and areas. (1) This section establishes commercial fishery licenses required for shellfish fisheries and the annual fees for those licenses. The director may issue a limited-entry commercial fishery license only to a person who meets the qualifications established in applicable governing sections of this title.

(d) Dungeness crab- Puget Sound (RCW 77.70.110)	\$180	\$565	\$105	Yes	Yes
(e) Emerging commercial fishery (RCW 77.70.160 and 77.65.400)	\$335	\$720	\$105	Determined by rule	Determined by rule
(f) Geoduck (RCW 77.70.220)	\$ 0	\$ 0	\$ 70	Yes	Yes
(g) Hardshell clam mechanical harvester (RCW 77.65.250)	\$580	\$965	\$ 70	Yes	No
(h) Oyster reserve (RCW 77.65.260)	\$180	\$565	\$ 70	No	No
(i) Razor clam	\$180	\$565	\$105	No	No
(j) Sea cucumber dive (RCW 77.70.190)	\$280	\$665	\$105	Yes	Yes
(k) Sea urchin dive (RCW 77.70.150)	\$280	\$665	\$105	Yes	Yes
(l) Shellfish dive	\$180	\$565	\$ 70	Yes	No
(m) Shellfish pot	\$180	\$565	\$ 70	Yes	No
(n) Shrimp pot- Puget Sound (RCW 77.70.410)	\$335	\$720	\$105	Yes	Yes
(o) Shrimp trawl- Puget Sound (RCW 77.70.420)	\$335	\$720	\$105	Yes	Yes
(p) Spot shrimp-coastal	\$335	\$720	\$ 70	Yes	Yes
(q) Squid	\$335	\$720	\$ 70	Yes	No

(2) The director may by rule determine the species of shellfish that may be taken with the commercial fishery licenses established in this section, the gear that may be used with the licenses, and the areas or waters in which the licenses may be used. Where a fishery license has been established for a particular species, gear, geographical area, or combination thereof, a more general fishery license may not be used to take shellfish in that fishery. [2018 c 235 § 7; 2017 3rd sp.s. c 8 § 27. Prior: 2011 c 339 § 24; 2011 c 147 § 4; 2000 c 107 § 43; 1999 c 239 § 2; 1994 c 260 § 14; 1993 sp.s. c 17 § 40; (1993 c 340 § 17 repealed by 1993 sp.s. c 17 § 47); 1989 c 316 § 8; 1983 1st ex.s. c 46 § 120; 1977 ex.s. c 327 § 6; 1971 ex.s. c 283 § 7; 1965 ex.s. c 73 § 4; 1959 c 309 § 12; 1955 c 12 § 75.28.130; prior: 1951 c 271 § 11; 1949 c 112 § 69(3); Rem. Supp. 1949 § 5780-507(3). Formerly RCW 75.28.130.]

Effective date—2018 c 235: See note following RCW 77.65.150.

Finding—Intent—Effective date—2017 3rd sp.s. c 8: See notes following RCW 77.08.010.

Effective date—2011 c 339: See note following RCW 43.84.092.

Finding—Purpose—Intent—1999 c 239: "The legislature finds that it is in the public interest to convert the Puget Sound shrimp fishery from the status of an emerging fishery to that of a limited entry fishery. The purpose of this act is to initiate this conversion, recognizing that additional details associated with the shrimp fishery limited entry program will need to be developed. The legislature intends to complete the development of the laws associated with this limited entry fishery program during the next regular legislative session and will consider recommendations from the industry and the department during this program." [1999 c 239 § 1.]

Finding—Severability—1994 c 260: See notes following RCW 77.70.280.

Finding—Contingent effective date—Severability—1993 sp.s. c 17: See notes following RCW 77.32.520.

Dungeness crab-Puget Sound fishery license endorsement: RCW 77.70.110.

(2021 Ed.)

Additional notes found at www.leg.wa.gov

77.65.240 Surcharge on Dungeness crab-coastal fishery license. A surcharge of one hundred twenty dollars shall be collected with each Dungeness crab-coastal fishery license issued under RCW 77.65.220. Moneys collected under this section shall be placed in the coastal crab account created under RCW 77.70.320. [2017 3rd sp.s. c 8 § 28; 2000 c 107 § 45; 1997 c 418 § 5. Formerly RCW 75.28.133.]

Finding—Intent—Effective date—2017 3rd sp.s. c 8: See notes following RCW 77.08.010.

77.65.250 Hardshell clam mechanical harvester fishery license. A hardshell clam mechanical harvester fishery license is required to operate a mechanical or hydraulic device for commercially harvesting clams, other than geoduck clams, unless the requirements of RCW 77.55.021 are fulfilled for the proposed activity. [2005 c 146 § 1005; 2000 c 107 § 46; 1993 c 340 § 19; 1989 c 316 § 12; 1985 c 457 § 19; 1983 1st ex.s. c 46 § 125; 1979 ex.s. c 141 § 3; 1969 ex.s. c 253 § 3; 1955 c 212 § 8; 1955 c 12 § 75.28.280. Prior: 1951 c 271 § 26; 1949 c 112 § 70; Rem. Supp. 1949 § 5780-508. Formerly RCW 75.28.280.]

Finding, intent—Captions not law—Effective date—Severability—1993 c 340: See notes following RCW 77.65.010.

Additional notes found at www.leg.wa.gov

77.65.260 State oyster reserves—Oyster reserve fishery license. A person who commercially takes shellfish from state oyster reserves under RCW 77.60.050 must have an oyster reserve fishery license. [2000 c 107 § 47; 1993 c 340 § 20; 1989 c 316 § 14; 1983 1st ex.s. c 46 § 131; 1969 ex.s. c 91 § 2; 1955 c 12 § 75.28.290. Prior: 1951 c 271 § 27; 1949 c

112 § 71; Rem. Supp. 1949 § 5780-509. Formerly RCW 75.28.290.]

Finding, intent—Captions not law—Effective date—Severability—1993 c 340: See notes following RCW 77.65.010.

77.65.270 Oyster cultch permit. An oyster cultch permit is required for commercial cultching of oysters on state oyster reserves. The director shall require that ten percent of the cultch bags or other collecting materials be provided to the state after the oysters have set, for the purposes of increasing the supply of oysters on state oyster reserves and enhancing oyster supplies on public beaches. [1989 c 316 § 15. Formerly RCW 75.28.295.]

77.65.280 Fish dealer license—Exemption—Fees. (1) A fish dealer license is required for a person in the state who:

(a) Takes possession of raw or frozen fish or shellfish, in whole or in parts, to prepare, repack, process, or preserve. This includes, but is not limited to:

(i) Canning or processing of fish or shellfish for payment, whether the fish or shellfish is commercially harvested or taken for personal use; and

(ii) The commercial manufacture or preparation of fertilizer, oil, meal, caviar, fish bait, or any other by-products from fish or shellfish;

(b) Engages in the wholesale selling, buying, or brokering of raw or frozen fish or shellfish. Certain buyers may be additionally required to obtain a wholesale fish buyer endorsement as specified in RCW 77.65.340.

(2) A fish dealer license is not required for:

(a) Licensed commercial fish or shellfish harvesters who either sell only to licensed wholesale fish buyers or who possess a limited fish seller endorsement;

(b) Retail businesses that purchase exclusively from Washington licensed wholesale fish buyers or from limited fish sellers for sale to end consumers.

(3) A business engaged in any activity requiring a fish dealer license only needs to purchase one fish dealer license to cover the actions of all employees.

(4) The annual license fee for a resident fish dealer is four hundred dollars. The fee for a nonresident fish dealer license is seven hundred eighty-five dollars. The application fee for both resident and nonresident licenses is one hundred five dollars. [2018 c 235 § 8; 2017 3rd sp.s. c 8 § 29; 2014 c 48 § 27; 2013 c 23 § 244; 2011 c 339 § 25; 2002 c 301 § 5; 2000 c 107 § 48; 1993 sp.s. c 17 § 43; 1989 c 316 § 16. Prior: 1985 c 457 § 20; 1985 c 248 § 1; 1983 1st ex.s. c 46 § 132; 1979 c 66 § 1; 1965 ex.s. c 28 § 1; 1955 c 212 § 11; 1955 c 12 § 75.28.300; prior: 1951 c 271 § 28; 1949 c 112 § 72(1); Rem. Supp. 1949 § 5780-510(1). Formerly RCW 75.28.300.]

Effective date—2018 c 235: See note following RCW 77.65.150.

Finding—Intent—Effective date—2017 3rd sp.s. c 8: See notes following RCW 77.08.010.

Effective date—2011 c 339: See note following RCW 43.84.092.

Finding—Effective date—2002 c 301: See notes following RCW 77.65.510.

Finding—Contingent effective date—Severability—1993 sp.s. c 17: See notes following RCW 77.32.520.

Additional notes found at www.leg.wa.gov

77.65.310 Wholesale fish buyers and limited fish sellers—Documentation of commercial harvest. Wholesale fish buyers and limited fish sellers are required to document the commercial harvest of fish and shellfish according to the rules of the department. [2017 3rd sp.s. c 8 § 30; 1996 c 267 § 29; 1985 c 248 § 4. Formerly RCW 75.28.315.]

Finding—Intent—Effective date—2017 3rd sp.s. c 8: See notes following RCW 77.08.010.

Intent—Effective date—1996 c 267: See notes following RCW 77.12.177.

77.65.320 Wholesale fish buyers/limited fish seller—Performance bond. (1) A wholesale fish buyer or limited fish seller must deposit with the department an acceptable performance bond on forms prescribed and furnished by the department before engaging in fish selling or buying activities. This performance bond shall be a corporate surety bond executed in favor of the department by a corporation authorized to do business in the state of Washington under chapter 48.28 RCW and approved by the department.

(a) For wholesale fish buyers, the bond shall be filed and maintained in an amount equal to two thousand dollars. For each additional buyer engaged by the wholesale business, the bond must be increased an additional one thousand dollars.

(b) For limited fish sellers, the bond shall be filed and maintained in an amount equal to one thousand dollars.

(c) The department may increase the bond amount for persons who have violated rules relating to the accounting of commercial harvest.

(2) The director may suspend and refuse to reissue a wholesale fish buyer endorsement of a person who has taken possession of fish or shellfish without an acceptable performance bond on deposit with the department.

(3) The director may suspend and refuse to reissue a limited fish seller endorsement to a commercial fisher who has sold fish or shellfish without an acceptable performance bond on deposit with the department.

(4) The bond shall be conditioned upon the compliance with the requirements of this chapter and rules of the department relating to the payment of fines for violations of rules for the accounting of the commercial harvest of fish or shellfish. In lieu of the surety bond required by this section, the wholesale fish buyer or limited fish seller may file with the department a cash deposit, negotiable securities acceptable to the department, or an assignment of a savings account or of a savings certificate in a Washington bank on an assignment form prescribed by the department.

(5) Liability under the bond may be released only upon written notification from the department. Notification shall be given upon acceptance by the department of a substitute bond or forty-five days after the expiration of the wholesale fish buyer or limited fish seller annual endorsement. In no event shall the liability of the surety exceed the amount of the surety bond required under this chapter. [2017 3rd sp.s. c 8 § 31; 2000 c 107 § 49; 1996 c 267 § 30; 1985 c 248 § 6. Formerly RCW 75.28.323.]

Finding—Intent—Effective date—2017 3rd sp.s. c 8: See notes following RCW 77.08.010.

Intent—Effective date—1996 c 267: See notes following RCW 77.12.177.

77.65.330 Wholesale fish buyer/limited fish seller—Notification by director of a violation of rules relating to the accounting of commercial harvest—Payment of liability. The director shall promptly notify by order a wholesale fish buyer or limited fish seller and the appropriate surety when a violation of rules relating to the accounting of commercial harvest has occurred. The notification shall specify the type of violation, the liability to be imposed for damages caused by the violation, and a notice that the amount of liability is due and payable to the department by the wholesale fish buyer or limited fish seller and the surety.

If the amount specified in the order is not paid within thirty days after receipt of the notice, the prosecuting attorney for any county in which the persons to whom the order is directed do business, or the attorney general upon request of the department, may bring an action on behalf of the state in the superior court for Thurston county or any county in which the persons to whom the order is directed do business to recover the amount specified in the final order of the department. The surety shall be liable to the state to the extent of the bond. [2017 3rd sp.s. c 8 § 32; 1985 c 248 § 7. Formerly RCW 75.28.328.]

Finding—Intent—Effective date—2017 3rd sp.s. c 8: See notes following RCW 77.08.010.

77.65.340 Wholesale fish buyer endorsement—Fees.

(1) A wholesale fish buyer endorsement is required for a licensed fish dealer:

(a) To take first possession or ownership of fish or shellfish directly from a commercial fisher that is landed into the state of Washington;

(b) To take first possession or ownership of raw or frozen fish or shellfish in the state of Washington from interstate or foreign commerce; or

(c) To engage in the wholesale buying or selling of fish or shellfish harvested by Indian fishers lawfully exercising fishing rights reserved by federal statute, treaty, or executive order, and the dealer is also responsible for documenting the commercial harvest and sales according to the rules of the department.

(2) A business licensed as a fish dealer must purchase at least one wholesale fish buyer endorsement to engage in the activities in subsection (1) of this section, which allows the business to buy or sell on its premises and which allows one named employee to buy and sell off premises. A business must obtain an additional wholesale fish buyer endorsement for each additional employee who buys and sells fish or shellfish off premises.

(3) The annual fee for a resident wholesale fish buyer's endorsement for business operations with only one fish buyer is fifty dollars. The annual fee for a resident wholesale fish buyer's endorsement for business operations with two or more employees is two hundred forty-five dollars. The annual fee for a nonresident wholesale fish buyer's endorsement is six hundred thirty dollars. The application fee for both resident and nonresident endorsements is one hundred five dollars. [2018 c 235 § 9; 2017 3rd sp.s. c 8 § 33; 2014 c 48 § 28; 2013 c 23 § 245; 2011 c 339 § 26; 2000 c 107 § 50; 1993 sp.s. c 17 § 46; 1989 c 316 § 17; 1985 c 248 § 2. Formerly RCW 75.28.340.]

(2021 Ed.)

Finding—Intent—Effective date—2017 3rd sp.s. c 8: See notes following RCW 77.08.010.

Effective date—2011 c 339: See note following RCW 43.84.092.

Finding—Contingent effective date—Severability—1993 sp.s. c 17: See notes following RCW 77.32.520.

Additional notes found at www.leg.wa.gov

77.65.350 Salmon roe—Sale by crewmember on a boat designated on a salmon charter license—Requirements. (1) Crewmembers on a boat designated on a salmon charter license may sell salmon roe subject to rules of the department as long as:

(a) The salmon is taken by an angler fishing on the charter boat and recorded on the angler's catch record card;

(b) The roe is the property of the angler until the roe is given to the crewmember. The crewmember shall notify the charter boat's passengers of this fact;

(c) The crewmember sells the roe to a licensed wholesale fish buyer; and

(d) The crewmember is employed on a salmon charter boat designated on a valid license at the time of the sale. [2017 3rd sp.s. c 8 § 34; 1996 c 267 § 31; 1993 c 340 § 22; 1989 c 316 § 18; 1983 1st ex.s. c 46 § 137; 1981 c 227 § 2. Formerly RCW 75.28.690.]

Finding—Intent—Effective date—2017 3rd sp.s. c 8: See notes following RCW 77.08.010.

Intent—Effective date—1996 c 267: See notes following RCW 77.12.177.

Finding, intent—Captions not law—Effective date—Severability—1993 c 340: See notes following RCW 77.65.010.

77.65.370 Food fish guide license—Game fish guide license. (1) A person shall not offer or perform the services of a food fish guide without a food fish guide license in the taking of food fish for personal use, except that a charter boat license is required to operate a vessel from which a person may for a fee fish for food fish in state waters listed in RCW 77.65.150(4)(b).

(2) A person shall not offer or perform the services of a game fish guide without a game fish guide license in the taking of game fish for personal use.

(3) Only an individual at least sixteen years of age may hold a food fish guide or game fish guide license. No individual may hold more than one food fish guide or game fish guide license.

(4) An application for a food fish guide or game fish guide license must include the information required in RCW 77.65.560.

(5) A food fish guide license purchased by a person, firm, or business on behalf of an employee is subject to RCW 77.65.600.

(6) A food fish guide, a game fish guide, or a combination guide may sell recreational one-day temporary combination fishing licenses as described in RCW 77.32.470. [2017 3rd sp.s. c 8 § 35. Prior: 2015 c 103 § 2; 2015 c 97 § 4; 2013 c 314 § 3; 2009 c 333 § 8; 1998 c 190 § 98; 1993 c 340 § 26; 1991 c 362 § 2. Formerly RCW 75.28.710.]

Finding—Intent—Effective date—2017 3rd sp.s. c 8: See notes following RCW 77.08.010.

Finding, intent—Captions not law—Effective date—Severability—1993 c 340: See notes following RCW 77.65.010.

77.65.380 Ocean pink shrimp—Defined. Unless the context clearly requires otherwise, as used in this chapter "ocean pink shrimp" means the species *Pandalus jordani*. [1993 c 376 § 2. Formerly RCW 75.28.720.]

Findings—1993 c 376: "The legislature finds that the offshore Washington, Oregon, and California commercial ocean pink shrimp fishery is composed of a mobile fleet, fishing the entire coast from Washington to California and landing its catch in the state nearest the area being fished. The legislature further finds that the ocean pink shrimp fishery currently uses the entire available resource, and has the potential to become overcapitalized. The legislature further finds that overcapitalization can lead to economic destabilization, and that reductions in fishing opportunities from licensing restrictions imposed for conservation needs and the economic well-being of the ocean pink shrimp industry creates uncertainty. The legislature further finds that it is [in] the best interest of the ocean pink shrimp resource, commercial ocean pink shrimp fishers, and ocean pink shrimp processors in the state, to limit the number of fishers who make landings of ocean pink shrimp into the state of Washington to those persons who have historically and continuously participated in the ocean pink shrimp fishery." [1993 c 376 § 1.]

Additional notes found at www.leg.wa.gov

77.65.390 Ocean pink shrimp—Delivery license—Fees. An ocean pink shrimp delivery license is required for a commercial fishing vessel to deliver ocean pink shrimp taken for commercial purposes in offshore waters and delivered to a port in the state. As used in this section, "deliver" and "delivery" mean arrival at a place or port, and include arrivals from offshore waters to waters within the state and arrivals from state or offshore waters. The annual license fee is three hundred dollars for residents and six hundred eighty-five dollars for nonresidents. The application fee is one hundred five dollars. Ocean pink shrimp delivery licenses are transferable. [2018 c 235 § 10; 2017 3rd sp.s. c 8 § 36; 2011 c 339 § 27; 2005 c 20 § 5; 2000 c 107 § 51; 1993 c 376 § 4. Formerly RCW 75.28.730.]

Effective date—2018 c 235: See note following RCW 77.65.150.

Finding—Intent—Effective date—2017 3rd sp.s. c 8: See notes following RCW 77.08.010.

Effective date—2011 c 339: See note following RCW 43.84.092.

Findings—Effective date—1993 c 376: See notes following RCW 77.65.380.

77.65.400 Emerging commercial fishery—Trial or experimental fishery—Licenses and permits. (1) The director may by rule designate a fishery as an emerging commercial fishery. The director shall include in the designation whether the fishery is one that requires a vessel.

(2) "Emerging commercial fishery" means the commercial taking of a newly classified species of food fish or shellfish, the commercial taking of a classified species with gear not previously used for that species, or the commercial taking of a classified species in an area from which that species has not previously been commercially taken. Any species of food fish or shellfish commercially harvested in Washington state as of June 7, 1990, may be designated as a species in an emerging commercial fishery, except that no fishery subject to a license limitation program in chapter 77.70 RCW may be designated as an emerging commercial fishery.

(3) A person shall not take food fish or shellfish in a fishery designated as an emerging commercial fishery without an emerging commercial fishery license and a permit from the director. The director shall issue two types of permits to accompany emerging commercial fishery licenses: Trial fishery permits and experimental fishery permits. Trial fishery

permits are governed by subsection (4) of this section. Experimental fishery permits are governed by RCW 77.70.160.

(4) The director shall issue trial fishery permits for a fishery designated as an emerging commercial fishery unless the director determines there is a need to limit the number of participants under RCW 77.70.160. A person who meets the qualifications of RCW 77.65.040 may hold a trial fishery permit. The holder of a trial fishery permit shall comply with the terms of the permit. Trial fishery permits are not transferable from the permit holder to any other person. [2000 c 107 § 52; 1998 c 190 § 99; 1993 c 340 § 18. Formerly RCW 75.28.740.]

Finding, intent—Captions not law—Effective date—Severability—1993 c 340: See notes following RCW 77.65.010.

77.65.410 Geoduck diver license—Fee—Expiration—Safety program. (1)(a) Every diver engaged in the commercial harvest of subtidal geoduck clams shall obtain a geoduck diver license. An individual may only own one license and all geoduck harvesting performed under the license must be done personally by the actual license holder.

(b) The licensing requirement created in this section does not apply to divers engaged in activities related to the cultivation of geoduck clams as private sector cultured aquatic products as defined in RCW 15.85.020.

(c) The geoduck diver license is a nontransferable license.

(2) Beginning January 1, 2015, the director may not issue more than seventy-seven geoduck diver licenses in any one year.

(3) The annual geoduck diver license fee is as provided in RCW 77.65.440.

(4) A geoduck diver license expires on December 31st of each year. Prior to the license's expiration, a license holder may apply to renew the license holder's geoduck diver license only if the license holder is included on a department of natural resources' geoduck harvest agreement plan of operation during the applicable current calendar year.

(5) Beginning January 1, 2015, each person applying for or renewing a geoduck diver license under this section must complete the geoduck diver safety program established in RCW 43.30.560 prior to being issued a license. [2013 c 204 § 1; 1993 c 340 § 24; 1990 c 163 § 6; 1989 c 316 § 13; 1983 1st ex.s. c 46 § 130; 1979 ex.s. c 141 § 4; 1969 ex.s. c 253 § 4. Formerly RCW 75.28.750, 75.28.287.]

Rule-making authority—2013 c 204 §§ 1-3: "The department of fish and wildlife may adopt any rules deemed necessary to implement sections 1 through 3 of this act." [2013 c 204 § 7.]

Finding, intent—Captions not law—Effective date—Severability—1993 c 340: See notes following RCW 77.65.010.

Designation of aquatic lands for geoduck harvesting: RCW 79.135.220.

Geoducks, harvesting for commercial purposes—License: RCW 77.60.070.

Additional notes found at www.leg.wa.gov

77.65.420 Wild salmonid policy—Establishment. By July 1, 1994, the commission jointly with the appropriate Indian tribes, shall each establish a wild salmonid policy. The policy shall ensure that department actions and programs are consistent with the goals of rebuilding wild stock populations to levels that permit commercial and recreational fishing

opportunities. [2000 c 107 § 53; 1993 sp.s. c 4 § 2. Formerly RCW 75.28.760.]

Findings—Grazing lands—1993 sp.s. c 4: See RCW 79.13.600.

Instream flows: RCW 90.22.060.

Salmon, impact of water diversion: RCW 90.03.360.

77.65.430 Wild salmonid policy—Management strategies and gear types. The director shall evaluate and recommend, in consultation with the Indian tribes, salmon fishery management strategies and gear types, as well as a schedule for implementation, that will minimize the impact of commercial and recreational fishing in the mixed stock fishery on critical and depressed wild stocks of salmonids. As part of this evaluation, the director, in conjunction with the commercial and recreational fishing industries, shall evaluate commercial and recreational salmon fishing gear types developed by these industries. [2000 c 107 § 54; 1998 c 245 § 153; 1994 c 264 § 46; 1993 sp.s. c 4 § 4. Formerly RCW 75.28.770.]

Findings—Grazing lands—1993 sp.s. c 4: See RCW 79.13.600.

77.65.440 Alternate operator—Geoduck diver—Food fish guide—Fees. The director shall issue the personal licenses listed in this section according to the requirements of this title. The licenses and their annual fees are:

Personal License	Annual Fee (RCW 77.95.090 Surcharge)		Applica- tion Fee	Governing Section
	Resident	Nonresident		
(1) Alternate Operator	\$185	\$570	\$ 70	RCW 77.65.130
(2) Geoduck Diver	\$355	\$740	\$ 70	RCW 77.65.410
(3) Food Fish Guide	\$210 (plus \$20)	\$595 (plus \$100)	\$ 70	RCW 77.65.370

[2018 c 235 § 11; 2017 3rd sp.s. c 8 § 37; 2011 c 339 § 28; 2009 c 333 § 9; 2000 c 107 § 55; 1993 sp.s. c 17 § 42. Formerly RCW 75.28.780.]

Effective date—2018 c 235: See note following RCW 77.65.150.

Finding—Intent—Effective date—2017 3rd sp.s. c 8: See notes following RCW 77.08.010.

Effective date—2011 c 339: See note following RCW 43.84.092.

Finding—Contingent effective date—Severability—1993 sp.s. c 17: See notes following RCW 77.32.520.

Additional notes found at www.leg.wa.gov

77.65.450 Trapper's license—Fees. A state trapping license allows the holder to trap fur-bearing animals throughout the state. However, a trapper may not place traps on private property without permission of the owner, lessee, or tenant where the land is improved and apparently used, or where the land is fenced or enclosed in a manner designed to exclude intruders or to indicate a property boundary line, or where notice is given by posting in a conspicuous manner. A state trapping license is void on April 1st following the date of issuance. The fee for this license is thirty-six dollars for residents sixteen years of age or older, fifteen dollars for residents under sixteen years of age, and one hundred eighty dollars for nonresidents. The application fee is one hundred five dollars. [2011 c 339 § 29; 1991 sp.s. c 7 § 3; 1987 c 372 § 3; 1985 c 464 § 4; 1981 c 310 § 23. Prior: 1980 c 78 § 113;

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1980 c 24 § 2; 1975 1st ex.s. c 15 § 28. Formerly RCW 77.32.191.]

Effective date—2011 c 339: See note following RCW 43.84.092.

Effective dates—Legislative intent—1981 c 310: See notes following RCW 77.12.170.

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

Traps placed on private property: RCW 77.32.545, 77.15.191.

Additional notes found at www.leg.wa.gov

77.65.460 Trapper's license—Training program or examination requisite for issuance to initial licensee. Persons purchasing a state trapping license for the first time shall present certification of completion of a course of instruction in safe, humane, and proper trapping techniques or pass an examination to establish that the applicant has the requisite knowledge.

The director shall establish a program for training persons in trapping techniques and responsibilities, including the use of trapping devices designed to painlessly capture or instantly kill. The director shall cooperate with national and state animal, humane, hunter education, and trapping organizations in the development of a curriculum. Upon successful completion of the course, trainees shall receive a trapper's training certificate signed by an authorized instructor. This certificate is evidence of compliance with this section. [1987 c 506 § 82; 1981 c 310 § 24; 1980 c 78 § 114; 1977 c 43 § 1. Formerly RCW 77.32.197.]

Legislative findings and intent—1987 c 506: See note following RCW 77.04.020.

Effective dates—Legislative intent—1981 c 310: See notes following RCW 77.12.170.

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.65.480 Taxidermist, fur dealer, game fish guide, and game farm—Licenses—Fees—Game fish stocking permit—Fees—Fishing or field trial permit—Fees. (1) A taxidermy license allows the holder to practice taxidermy for commercial purposes, as that term is defined in RCW 77.15.110. The fee for this license is one hundred eighty dollars. The application fee is seventy dollars.

(2) A fur dealer's license allows the holder to purchase, receive, or resell raw furs for commercial purposes, as that term is defined in RCW 77.15.110. The fee for this license is one hundred eighty dollars. The application fee is seventy dollars.

(3)(a) A game fish guide license allows the holder to offer or perform the services of a game fish guide in the taking of game fish. The fee for this license is three hundred five dollars for a resident and six hundred ninety dollars for a nonresident. The application fee is seventy dollars. An application for a game fish guide license must include the information required in RCW 77.65.560.

(b) A game fish guide license purchased by a person, firm, or business on behalf of an employee is subject to RCW 77.65.600.

(4) A game farm license allows the holder to operate a game farm to acquire, breed, grow, keep, and sell wildlife under conditions prescribed by the rules adopted pursuant to this title. The fee for this license is seventy-two dollars for the

first year and forty-eight dollars for each following year. The application fee is seventy dollars.

(5) A game fish stocking permit allows the holder to release game fish into the waters of the state as prescribed by rule of the commission. The fee for this permit is twenty-four dollars. The application fee is seventy dollars.

(6) A fishing or field trial permit allows the holder to promote, conduct, hold, or sponsor a fishing or field trial contest in accordance with rules of the commission. The fee for a fishing contest permit is twenty-four dollars. The fee for a field trial contest permit is twenty-four dollars. The application fee is seventy dollars. [2018 c 235 § 12; 2017 3rd sp.s. c 8 § 38; 2015 c 103 § 3; 2013 c 314 § 2; 2011 c 339 § 30; 2009 c 333 § 11; 1991 sp.s. c 7 § 4; 1987 c 506 § 83; 1985 c 464 § 5; 1983 c 284 § 3; 1981 c 310 § 25; 1980 c 78 § 115; 1975 1st ex.s. c 15 § 30. Formerly RCW 77.32.211.]

Effective date—2018 c 235: See note following RCW 77.65.150.

Finding—Intent—Effective date—2017 3rd sp.s. c 8: See notes following RCW 77.08.010.

Effective date—2011 c 339: See note following RCW 43.84.092.

Legislative findings and intent—1987 c 506: See note following RCW 77.04.020.

Findings—Intent—1983 c 284: See note following RCW 82.27.020.

Effective dates—Legislative intent—1981 c 310: See notes following RCW 77.12.170.

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

Additional notes found at www.leg.wa.gov

77.65.490 Activities requiring license/permit. (1) A license issued by the director is required to:

- (a) Practice taxidermy for commercial purposes;
- (b) Deal in raw furs for commercial purposes;
- (c) Act as a fishing guide; or
- (d) Operate a game farm.

(2) A permit issued by the director is required to:

- (a) Conduct, hold, or sponsor hunting or fishing contests or competitive field trials using live wildlife;
- (b) Collect wild animals, wild birds, game fish, food fish, shellfish, or protected wildlife for research or display;
- (c) Stock game fish; or
- (d) Conduct commercial activities on department-owned or controlled lands.

(3) Aquaculture as defined in RCW 15.85.020 is exempt from the requirements of this section, except when being stocked in public waters under contract with the department. [2017 3rd sp.s. c 8 § 39; 2001 c 253 § 56.]

Finding—Intent—Effective date—2017 3rd sp.s. c 8: See notes following RCW 77.08.010.

77.65.500 Reports required from persons with licenses or permits under RCW 77.65.480. Licensed taxidermists, fur dealers, fishing guides, game farmers, and persons stocking game fish or conducting a hunting, fishing, or field trial contest shall make reports as required by rules of the director. [2017 3rd sp.s. c 8 § 40; 2015 c 97 § 9; 1987 c 506 § 84; 1983 c 284 § 4; 1981 c 310 § 26; 1980 c 78 § 116; 1955 c 36 § 77.32.220. Prior: 1947 c 275 § 111; Rem. Supp. 1947 § 5992-120. Formerly RCW 77.32.220.]

Finding—Intent—Effective date—2017 3rd sp.s. c 8: See notes following RCW 77.08.010.

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Legislative findings and intent—1987 c 506: See note following RCW 77.04.020.

Findings—Intent—1983 c 284: See note following RCW 82.27.020.

Effective dates—Legislative intent—1981 c 310: See notes following RCW 77.12.170.

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.65.510 Limited fish seller endorsement—Food safety requirements—Fees—Other provisions. (1) The limited fish seller endorsement permits a license holder or alternate operator to clean, dress, and sell his or her commercially harvested catch directly to consumers at retail. The limited fish seller endorsement may be issued as an optional addition to all holders of a commercial fishing license issued by the department and may be purchased at the time of the underlying license sale or any time thereafter.

(2) The holder of a limited fish seller endorsement selling their own catch directly to consumers is exempt from the permitting requirements of chapter 246-215 WAC. To ensure food safety for consumers, the holder of a limited fish seller endorsement must follow these requirements: (a) Only sell fresh, whole fish or fresh fish that has been cleaned and dressed; (b) use ice from a commercial source to hold the fish; and (c) provide the buyer with a receipt stating the date of purchase, Washington fish-receiving ticket number documenting the original delivery, name, address, and phone number of the holder of the limited fish seller endorsement from whom the fish or shellfish was purchased, and the species and weight or number of fish or shellfish sold. Failure to satisfy these food safety requirements is punishable as an infraction under RCW 77.15.160. A licensed commercial fisher holding a limited fish seller endorsement may allow a designated alternate to sell under the authority of that endorsement.

(3) An individual need only add one limited fish seller endorsement to his or her license portfolio. If a limited fish seller endorsement is selected by an individual holding more than one commercial fishing license issued by the department, an endorsement is considered to be added to all commercial fishing licenses held by that individual, and is the only endorsement required for the individual to sell at retail any species permitted by any of the underlying endorsed licenses.

(4) The fee for a resident limited fish seller endorsement is seventy dollars. The fee for a nonresident limited fish seller endorsement is four hundred fifty-five dollars. The application fee for both a resident and nonresident endorsement is one hundred five dollars.

(5) The holder of a limited fish seller endorsement is responsible for documenting the commercial harvest and sales according to the rules of the department.

(6) The limited fish seller endorsement is to be held by a natural person and is not transferable or assignable. If the endorsed license is transferred, the limited fish seller endorsement immediately becomes void, and the transferor is not eligible for a full or prorated reimbursement of the annual fee paid for the limited fish seller endorsement. Upon becoming void, the holder of a limited fish seller endorsement must surrender the physical endorsement to the department.

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(7) The holder of a qualifying commercial fishing license or an alternate operator designated on such a license, must either possess a limited fish seller endorsement or a wholesale fish buyer endorsement provided for in RCW 77.65.340 in order to lawfully sell their catch or harvest in the state to anyone other than a licensed wholesale fish buyer. [2018 c 235 § 13; 2017 3rd sp.s. c 8 § 41; 2011 c 339 § 31; 2009 c 195 § 1; 2003 c 387 § 2; 2002 c 301 § 2.]

Effective date—2018 c 235: See note following RCW 77.65.150.

Finding—Intent—Effective date—2017 3rd sp.s. c 8: See notes following RCW 77.08.010.

Effective date—2011 c 339: See note following RCW 43.84.092.

Finding—2002 c 301: "The legislature finds that commercial fishing is vitally important not just to the economy of Washington, but also to the cultural heritage of the maritime communities in the state. Fisher men and women have a long and proud history in the Pacific Northwest. State and local governments should seek out ways to enable and encourage these professionals to share the rewards of their craft with the nonfishing citizens of and visitors to the state of Washington by encouraging the exploration and development of new niche markets." [2002 c 301 § 1.]

Additional notes found at www.leg.wa.gov

77.65.530 Washington-coastal spot shrimp pot fishery license. (1) A Washington-coastal spot shrimp pot fishery license is required to:

- (a) Use spot shrimp pot gear to fish for spot shrimp;
- (b) Possess spot shrimp; and
- (c) Deliver spot shrimp.

(2) Washington-coastal spot shrimp pot fishery licenses require vessel designation under RCW 77.65.100.

(3) A violation of this section is punishable under RCW 77.15.500. [2011 c 147 § 1.]

77.65.550 Revocation of geoduck diver license. The department must revoke a geoduck diver license issued under RCW 77.65.410, and the licensee must surrender the license, if the licensee is found in violation of a department of natural resources' geoduck harvest agreement two or more times. The person surrendering the geoduck diver license may not hold another geoduck diver license for a period of one calendar year from the date the license is surrendered. [2013 c 204 § 3.]

Rule-making authority—2013 c 204 §§ 1-3: See note following RCW 77.65.410.

77.65.560 Application for food fish guide license/game fish guide license—Required information.

(1) Any application for a food fish guide license or game fish guide license under RCW 77.65.480 must include:

(a) The applicant's driver's license or other government-issued identification card number and the jurisdiction of issuance;

(b) The applicant's unified business identifier number under a business license issued under RCW 19.02.070;

(c) Proof of current certification in first aid and cardiopulmonary resuscitation;

(d) A certificate of insurance demonstrating that the applicant has commercial liability coverage of at least three hundred thousand dollars;

(e) If applicable, an original or notarized copy of a valid license issued by the United States coast guard to the appli-

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cant that authorizes the holder to carry passengers for hire; and

(f) A sworn declaration requiring the applicant to certify whether the area of operations will include federally recognized navigable waters with a motorized vessel.

(2) The requirements of this section related to licensure by the United States coast guard apply only to applicants intending to carry passengers for hire with a motorized vessel on federally recognized navigable waters. The license issued by the United States coast guard must be valid in the waters where the game fish guide or food fish guide license applicant will be carrying passengers for hire in a motorized vessel.

(3) The requirements in this section are in addition to the requirements of RCW 77.65.050. [2015 c 97 § 10; 2013 c 314 § 1.]

77.65.570 Suspension of charter boat, food fish guide, or game fish guide license—Appeal.

(1) In addition to other license suspension provisions provided in this title, the department may suspend a charter boat license, food fish guide license, or game fish guide license if, within a twelve-month period, a person is convicted of two or more violations of any rule of the commission or director regarding seasons, bag limits, species, size, sex, or other possession restrictions while engaged in charter boat, food fish guide, or game fish guide activities. The department may suspend only the specific type of license or licenses related to the activity or activities for which the person is convicted.

(2) A person who has a food fish guide or game fish guide license suspended under this section may file an appeal with the department pursuant to chapter 34.05 RCW. An appeal must be filed within twenty days of notice of license suspension. If a timely appeal is filed, the suspension issued by the department does not take effect until twenty-one days after the department has delivered an opinion affirming the suspension. If no appeal is filed within twenty days of notice of license suspension, the right to an appeal is waived, and the suspension takes effect twenty-one days following the notice of suspension.

(3) License suspension under this section is in addition to any statutory penalties assigned to the underlying violation. [2015 c 97 § 2.]

77.65.580 Vessel registration number decal and identifying decal for food fish guides, game fish guides, and charter boat operators.

(1) The department must issue a department vessel registration number decal and an identifying decal to all food fish guides, game fish guides, and charter boat operators licensed under RCW 77.65.010.

(2) Any person who acts or offers to act as a food fish guide, game fish guide, or charter boat operator must display both decals on vessels in a location easily visible to customers and adjacent vessels. [2017 3rd sp.s. c 8 § 43; 2015 c 97 § 5.]

Finding—Intent—Effective date—2017 3rd sp.s. c 8: See notes following RCW 77.08.010.

77.65.590 Fish guide combination license—Rule making—Fee. (1) A fish guide combination license allows

the holder to offer or perform the services of a food fish guide and game fish guide.

(2) The commission must adopt rules to create and sell a fish guide combination license. The cost of the fish guide combination license or licenses must be below a fee equal to the total cost of the individual licenses contained within the combination. [2017 3rd sp.s. c 8 § 44; 2015 c 97 § 7.]

Finding—Intent—Effective date—2017 3rd sp.s. c 8: See notes following RCW 77.08.010.

77.65.600 Return of certain licenses upon termination of employment relationship. (1) Upon termination of the employment relationship by an employee or by an employing person, firm, or business, the employee shall return to the person, firm, or business who purchased the license on the employee's behalf any license described in subsection (2) of this section that the employee possesses.

(2) This section applies to the following types of licenses if the following types of licenses are purchased by a person, firm, or business on behalf of an employee of that person, firm, or business:

(a) A food fish guide license issued under RCW 77.65.370; and

(b) A game fish guide license issued under RCW 77.65.480.

(3) Any license described in subsection (2) of this section that is returned to the person, firm, or business who purchased the license pursuant to this section is transferable to another employee of the person, firm, or business who qualifies for a license under RCW 77.65.050 and 77.65.560.

(4)(a) An employee who fails to return a license as provided in this section shall pay to the person, firm, or business who purchased the license on the employee's behalf an amount equal to the full amount of the license fee and any application fee paid.

(b) A license possessed by an employee who fails to return the license as provided in this section or to pay the person, firm, or business who purchased the license on the employee's behalf as provided in (a) of this subsection is invalidated.

(5) For the purposes of this section, "purchased" means the payment of the full amount of the license fee and any application fee applicable to the license. [2015 c 103 § 1.]

77.65.610 Crewmember license—Requirements—Rule making—Fee—Exemptions. (1)(a) An individual age sixteen and older who works on board any vessel while operating in a commercial fishery regulated by the state must obtain a crewmember license from the department. However, an individual on the vessel designated as the primary or alternate operator on the commercial fishing license and an individual on the vessel licensed and working as a geoduck diver or geoduck tender do not also need a crewmember license. Crewmembers working for licensed charters or guides are not required to have a crewmember license.

(b) A crewmember license is required for each individual who participates in the operation of the vessel or the harvest. For the purposes of this section, the term "harvest" includes participation in tending, deploying, retrieving, or baiting fishing gear, harvesting, or placing fish or shellfish in holds.

(c) Each individual required to have a crewmember license as set forth in this section must have in their possession at least one piece of identifying documentation as specified in RCW 46.20.035(1) (a) through (f) that contains the signature and a photograph of the individual and produce the documentation at the request of a fish and wildlife officer or ex officio fish and wildlife officer.

(d) An albacore tuna crewmember license satisfies the requirements specified in (a) and (b) of this subsection on vessels fishing for albacore tuna or baitfish lampara.

(2) A crewmember license must be purchased in the name of the individual working as the crewmember. The license holder may use the license aboard any commercial fishing vessel, except an albacore tuna crewmember license is only valid for participating in the albacore tuna fishery or baitfish lampara fishery. A crewmember license purchased by a crewmember may not be transferred to another individual.

(3) Up to two crewmember licenses may be purchased and held by a commercial fishing license holder for use by any individual working on the vessel named in the commercial fishing license, as long as the individual is not prohibited from obtaining a crewmember license. Each crewmember license held by a commercial fishing license holder covers one crewmember per trip, but the same crewmember license may be used to authorize a different individual to act as a crewmember on a subsequent trip. The commission may adopt fishery specific rules that:

(a) Increase the number of crewmember licenses that may be held by a commercial fishing license holder;

(b) Pertain to the issuance, period of validity, use, possession, and display of the licenses.

(4) The fee for an annual crewmember license is thirty-five dollars for residents and one hundred ten dollars for non-residents. The fee for an annual albacore tuna crewmember license is thirty-five dollars for residents and nonresidents. Additional application fees and surcharges do not apply except that if the license is purchased through the automated licensing system the fees authorized in RCW 77.32.050 apply.

(5) The licenses must be available through the automated licensing system and transaction fees and dealer fees apply, except as provided in subsection (4) of this section. The annual crewmember license is valid for a calendar year.

(6) Family members of the commercial license holder or alternate operators are exempt from the requirements of this section. For purposes of this section, family members include children, grandchildren, spouse, parents, or siblings of the commercial license holder. [2021 c 46 § 1; 2017 3rd sp.s. c 8 § 15.]

Finding—Intent—Effective date—2017 3rd sp.s. c 8: See notes following RCW 77.08.010.

77.65.615 Commercial whale watching business license—Commercial whale watching operator license—Commercial whale watching kayak guide license—Fees—Definitions. (1) A commercial whale watching business license is required for commercial whale watching businesses. The annual fee for a commercial whale watching business license is two hundred dollars in addition to the annual application fee of seventy-five dollars.

(2) The annual fees for a commercial whale watching business license as described in subsection (1) of this section must include fees for each motorized or sailing vessel or vessels as follows:

(a) One to twenty-four passengers, three hundred twenty-five dollars;

(b) Twenty-five to fifty passengers, five hundred twenty-five dollars;

(c) Fifty-one to one hundred passengers, eight hundred twenty-five dollars;

(d) One hundred one to one hundred fifty passengers, one thousand eight hundred twenty-five dollars; and

(e) One hundred fifty-one passengers or greater, two thousand dollars.

(3) The holder of a commercial whale watching business license for motorized or sailing vessels required under subsection (2) of this section may substitute the vessel designated on the license, or designate a vessel if none has previously been designated, if the license holder:

(a) Surrenders the previously issued license to the department;

(b) Submits to the department an application that identifies the currently designated vessel, the vessel proposed to be designated, and any other information required by the department; and

(c) Pays to the department a fee of thirty-five dollars and an application fee of one hundred five dollars.

(4) Unless the business license holder owns all vessels identified on the application described in subsection (3)(b) of this section, the department may not change the vessel designation on the license more than once per calendar year.

(5) A commercial whale watching operator license is required for commercial whale watching operators. A person may operate a motorized or sailing commercial whale watching vessel designated on a commercial whale watching business license only if:

(a) The person holds a commercial whale watching operator license issued by the director; and

(b) The person is designated as an operator on the underlying commercial whale watching business license.

(6) No individual may hold more than one commercial whale watching operator license. An individual who holds an operator license may be designated as an operator on an unlimited number of commercial whale watching business licenses.

(7) The annual fee for a commercial whale watching operator license is one hundred dollars in addition to an annual application fee of seventy-five dollars.

(8) A person may conduct commercial whale watching via guided kayak tours only if:

(a) The person holds a kayak guide license issued by the director; and

(b) The person is designated as a kayak guide on the underlying commercial whale watching business license.

(9) No individual may hold more than one kayak guide license. An individual who holds a kayak guide license may be designated on an unlimited number of commercial whale watching business licenses.

(10) The annual fee for a kayak guide license is \$25 in addition to an annual application fee of \$25.

(11) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Commercial whale watching" means the act of taking, or offering to take, passengers aboard a vessel or guided kayak tour in order to view marine mammals in their natural habitat for a fee.

(b) "Commercial whale watching business" means a business that engages in the activity of commercial whale watching.

(c) "Commercial whale watching business license" means a department-issued license to operate a commercial whale watching business.

(d) "Commercial whale watching license" means a commercial whale watching business license, a commercial whale watching operator license, or a kayak guide license as defined in this section.

(e) "Commercial whale watching operator" means a person who operates a motorized or sailing vessel engaged in the business of whale watching.

(f) "Commercial whale watching operator license" means a department-issued license to operate a commercial motorized or sailing vessel on behalf of a commercial whale watching business.

(g) "Commercial whale watching vessel" means any vessel that is being used as a means of transportation for individuals to engage in commercial whale watching.

(h) "Kayak guide" means a person who conducts guided kayak tours on behalf of a commercial whale watching business.

(i) "Kayak guide license" means a department-issued license to conduct commercial guided kayak tours on behalf of a commercial whale watching business.

(12) The residency and business requirements of RCW 77.65.040 (2) and (3) do not apply to Canadian individuals or corporations applying for and holding Washington commercial whale watching licenses defined in this section.

(13) The license and application fees in this section are waived for calendar years 2021 and 2022. [2021 c 284 § 1; 2019 c 291 § 2.]

Effective date—2021 c 284: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 12, 2021]." [2021 c 284 § 2.]

77.65.620 Commercial whale watching license—Adoption of rules—Analysis and report to the governor and the legislature—Definitions.

(1) The department must adopt rules for holders of a commercial whale watching license established in RCW 77.65.615 for the viewing of southern resident orca whales for the inland waters of Washington by January 1, 2021. The rules must be designed to reduce the daily and cumulative impacts on southern resident orca whales and consider the economic viability of license holders. The department shall at a minimum consider protections for southern resident orca whales by establishing limitations on:

(a) The number of commercial whale watching operators that may view southern resident orca whales at one time;

(b) The number of days and hours that commercial whale watching operators can operate;

(c) The duration spent in the vicinity of southern resident orca whales; and

(d) The areas in which commercial whale watching operators may operate.

(2) The department may phase in requirements, but must adopt rules to implement this section. The department may consider the use of an automatic identification system to enable effective monitoring and compliance.

(3) The department may phase in requirements, but must adopt rules pursuant to chapter 34.05 RCW to implement this section including public, industry, and interested party involvement.

(4) Before January 1, 2021, the department shall convene an independent panel of scientists to review the current body of best available science regarding impacts to southern resident orcas by small vessels and commercial whale watching due to disturbance and noise. The department must use the best available science in the establishment of the southern resident orca whale watching rules and continue to adaptively manage the program using the most current and best available science.

(5) The department shall complete an analysis and report to the governor and the legislature on the effectiveness of and any recommendations for changes to the whale watching rules, license fee structure, and approach distance rules by November 30, 2022, and every two years thereafter until 2026. This report must be in compliance with RCW 43.01.036.

(6) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Commercial whale watching" has the same meaning as defined in RCW 77.65.615.

(b) "Commercial whale watching operators" has the same meaning as defined in RCW 77.65.615.

(c) "Inland waters of Washington" means Puget Sound and related inland marine waters, including all salt waters of the state of Washington inside the international boundary line between Washington and British Columbia, and lying east of the junction of the Pacific Ocean and the Strait of Juan de Fuca, and the rivers and streams draining to Puget Sound as mapped by water resource inventory areas 1 through 19 in WAC 173-500-040 as it exists on July 1, 2007. [2019 c 291 § 3.]

Chapter 77.70 RCW

LICENSE LIMITATION PROGRAMS

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77.70.005 Definitions. The definitions in this section apply throughout this chapter and related rules adopted by the department unless the context clearly requires otherwise.

(1) "Deliver" or "delivery" means arrival at a place or port, and includes arrivals from offshore waters to waters within the state and arrivals ashore from offshore waters.

(2) "Pacific sardine" and "pilchard" means the species *Sardinops sagax*.

(3) "Spot shrimp" means the species *Pandalus platyceros*. [2011 c 147 § 5; 2009 c 331 § 1.]

77.70.010 License renewed subject to RCW 77.65.080. (1) A license renewed under the provisions of this chapter that has been suspended under RCW 77.65.080 shall be subject to the following provisions:

(a) A license renewal fee shall be paid as a condition of maintaining a current license; and

(b) The department shall waive any other license requirements, unless the department determines that the license holder has had sufficient opportunity to meet these requirements.

(2) The provisions of subsection (1) of this section shall apply only to a license that has been suspended under RCW 77.65.080 for a period of twelve months or less. A license holder shall forfeit a license subject to this chapter and may not recover any license renewal fees previously paid if the license holder does not meet the requirements of *RCW 74.20A.320(9) within twelve months of license suspension. [2001 c 253 § 57; 1997 c 58 § 884. Formerly RCW 75.30.015.]

*Reviser's note: RCW 74.20A.320 was amended by 2009 c 408 § 1, changing subsection (9) to subsection (3).

Effective dates—Intent—1997 c 58: See notes following RCW 74.20A.320.

Additional notes found at www.leg.wa.gov

77.70.020 No harvest opportunity during year—License requirements waived—Effect on license limitation programs. (1) The director shall waive license requirements, including landing or poundage requirements, if, during the calendar year that a license issued pursuant to chapter 77.65 RCW is valid, no harvest opportunity occurs in the fishery corresponding to the license.

(2) For each license limitation program, where the person failed to hold the license and failed to make landing or poundage requirements because of a license waiver by the director during the previous year, the person shall qualify for a license by establishing that the person held the license during the last year in which the license was not waived. [2000 c 107 § 56; 1995 c 227 § 2. Formerly RCW 75.30.021.]

77.70.040 Administrative review of department's decision—Hearing—Procedures. A person aggrieved by a decision of the department under this chapter may request administrative review under the informal procedure established by this section.

In an informal hearing before a review board, the rules of evidence do not apply. A record of the proceeding shall be kept as provided by chapter 34.05 RCW. After hearing the case the review board shall notify in writing the director and the initiating party whether the review board agrees or disagrees with the department's decision and the reasons for the review board's findings. Upon receipt of the review board's findings the director may order such relief as the director deems appropriate under the circumstances.

Nothing in this section: (1) Impairs an aggrieved person's right to proceed under chapter 34.05 RCW; or (2)

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imposes a liability on members of a review board for their actions under this section. [2000 c 107 § 58; 1995 1st sp.s. c 2 § 32 (Referendum Bill No. 45, approved November 7, 1995); 1983 1st ex.s. c 46 § 139; 1977 ex.s. c 106 § 6. Formerly RCW 75.30.060.]

Legislative findings—Severability—1977 ex.s. c 106: See notes following RCW 77.70.050.

Additional notes found at www.leg.wa.gov

77.70.050 Salmon charter boats—Limitation on issuance of licenses—Renewal—Transfer. (1) After May 28, 1977, the director shall issue no new salmon charter licenses. A person may renew an existing salmon charter license only if the person held the license sought to be renewed during the previous year or acquired the license by transfer from someone who held it during the previous year, and if the person has not subsequently transferred the license to another person.

(2) Salmon charter licenses may be renewed each year. A salmon charter license which is not renewed each year shall not be renewed further.

(3) Subject to the restrictions in RCW 77.65.020, salmon charter licenses are transferable from one license holder to another. [2000 c 107 § 59; 1993 c 340 § 28; 1983 1st ex.s. c 46 § 141; 1981 c 202 § 1; 1979 c 101 § 7; 1977 ex.s. c 106 § 2. Formerly RCW 75.30.065, 75.30.020.]

Finding, intent—Captions not law—Effective date—Severability—1993 c 340: See notes following RCW 77.65.010.

Effective date—Intent—1979 c 101: See notes following RCW 77.70.060.

Legislative findings—1977 ex.s. c 106: "The legislature finds that the wise management and economic health of the state's salmon fishery are of continued importance to the people of the state and to the economy of the state as a whole. The legislature finds that charter boats licensed by the state for use by the state's charter boat fishing industry have increased in quantity. The legislature finds that limitations on the number of licensed charter boats will tend to improve the management of the charter boat fishery and the economic health of the charter boat industry. The state therefore must use its authority to regulate the number of licensed boats in use by the state's charter boat industry in a manner provided in this chapter so that management and economic health of the salmon fishery may be improved." [1977 ex.s. c 106 § 1. Formerly RCW 75.30.010.]

Additional notes found at www.leg.wa.gov

77.70.060 Salmon charter boats—Angler permit, when required. (1) Except as provided in subsection (3) of this section, a person shall not operate a vessel as a charter boat from which salmon are taken in salt water without an angler permit. The angler permit shall specify the maximum number of persons that may fish from the charter boat per trip. The angler permit expires if the salmon charter license is not renewed.

(2) Only a person who holds a salmon charter license issued under RCW 77.65.150 and 77.70.050 may hold an angler permit.

(3) An angler permit shall not be required for charter boats licensed in Oregon and fishing in ocean waters within the jurisdiction of Washington state from the southern border of the state of Washington to Leadbetter Point under the same regulations as Washington charter boat operators, as long as the Oregon vessel does not land at any Washington port with the purpose of taking on or discharging passengers. The provisions of this subsection shall be in effect as long as the state

of Oregon has reciprocal laws and regulations. [2000 c 107 § 60; 1998 c 190 § 100; 1993 c 340 § 29; 1989 c 147 § 2; 1983 1st ex.s. c 46 § 142; 1979 c 101 § 2. Formerly RCW 75.30.070.]

Finding, intent—Captions not law—Effective date—Severability—1993 c 340: See notes following RCW 77.65.010.

Intent—1979 c 101: "The legislature finds that wise management of the state's salmon fishery is essential to the well-being of the state. The legislature recognizes that further restrictions on salmon fishing in the charter salmon industry are necessary and that a limitation on the number of persons fishing is preferable to reductions in the fishing season or daily bag limits, or increases in size limits." [1979 c 101 § 1.]

Additional notes found at www.leg.wa.gov

77.70.070 Salmon charter boats—Angler permit—Number of anglers. A salmon charter boat may not carry more anglers than the number specified in the angler permit issued under RCW 77.70.060. Members of the crew may fish from the boat only to the extent that the number of anglers specified in the angler permit exceeds the number of noncrew passengers on the boat at that time. [2000 c 107 § 61; 1993 c 340 § 30; 1983 1st ex.s. c 46 § 143; 1979 c 101 § 4. Formerly RCW 75.30.090.]

Finding, intent—Captions not law—Effective date—Severability—1993 c 340: See notes following RCW 77.65.010.

Effective date—Intent—1979 c 101: See notes following RCW 77.70.060.

77.70.080 Salmon charter boats—Angler permit—Total number of anglers limited—Permit transfer—Fees. (1) The total number of anglers authorized by the director shall not exceed the total number authorized for 1980.

(2) Angler permits issued under RCW 77.70.060 are transferable. All or a portion of the permit may be transferred to another salmon charter license holder.

(3) The angler permit holder and proposed transferee shall notify the department when transferring an angler permit, and the director shall issue a new angler permit certificate. If the original permit holder retains a portion of the permit, the director shall issue a new angler permit certificate reflecting the decrease in angler capacity.

(4) The department shall collect a fee of ten dollars for each certificate issued under subsection (3) of this section, plus an application fee of one hundred five dollars. [2011 c 339 § 32; 2000 c 107 § 62; 1993 c 340 § 31; 1983 1st ex.s. c 46 § 144; 1979 c 101 § 5. Formerly RCW 75.30.100.]

Effective date—2011 c 339: See note following RCW 43.84.092.

Finding, intent—Captions not law—Effective date—Severability—1993 c 340: See notes following RCW 77.65.010.

Effective date—Intent—1979 c 101: See notes following RCW 77.70.060.

77.70.090 Commercial salmon fishing licenses and delivery licenses—Limitations—Transfer. (1) Except as provided in subsection (2) of this section, after May 6, 1974, the director shall issue no new commercial salmon fishery licenses or salmon delivery licenses. A person may renew an existing license only if the person held the license sought to be renewed during the previous year or acquired the license by transfer from someone who held it during the previous year, and if the person has not subsequently transferred the license to another person.

(2) Where the person failed to obtain the license during the previous year because of a license suspension, the person may qualify for a license by establishing that the person held such a license during the last year in which the license was not suspended.

(3) Subject to the restrictions in RCW 77.65.020, commercial salmon fishery licenses and salmon delivery licenses are transferable from one license holder to another. [2000 c 107 § 63; 1995 c 135 § 7. Prior: 1993 c 340 § 32; 1993 c 100 § 1; 1983 1st ex.s. c 46 § 146; 1979 c 135 § 1; 1977 ex.s. c 230 § 1; 1977 ex.s. c 106 § 7; 1974 ex.s. c 184 § 2. Formerly RCW 75.30.120, 75.28.455.]

Intent—1995 c 135: See note following RCW 29A.08.760.

Finding, intent—Captions not law—Effective date—Severability—1993 c 340: See notes following RCW 77.65.010.

Legislative findings—Severability—1977 ex.s. c 106: See notes following RCW 77.70.050.

Legislative intent—1974 ex.s. c 184: "The legislature finds that the protection, welfare, and economic good of the commercial salmon fishing industry is of paramount importance to the people of this state. Scientific advancement has increased the efficiency of salmon fishing gear. There presently exists an overabundance of commercial salmon fishing gear in our state waters which causes great pressure on the salmon fishery resource. This situation results in great economic waste to the state and prohibits conservation programs from achieving their goals. The public welfare requires that the number of commercial salmon fishing licenses and salmon delivery permits issued by the state be limited to insure that sound conservation programs can be scientifically carried out. It is the intention of the legislature to preserve this valuable natural resource so that our food supplies from such resource can continue to meet the ever increasing demands placed on it by the people of this state." [1983 1st ex.s. c 46 § 136; 1974 ex.s. c 184 § 1. Formerly RCW 75.28.450.]

Additional notes found at www.leg.wa.gov

77.70.100 Commercial salmon fishery license or salmon delivery license—Reversion to department following government confiscation of vessel. Any commercial salmon fishery license issued under RCW 77.65.160 or salmon delivery license issued under RCW 77.65.170 shall revert to the department when any government confiscates and sells the vessel designated on the license. Upon application of the person named on the license as license holder and the approval of the director, the department shall transfer the license to the applicant. Application for transfer of the license must be made within the calendar year for which the license was issued. [2000 c 107 § 64; 1993 c 340 § 33; 1986 c 198 § 2. Formerly RCW 75.30.125.]

Finding, intent—Captions not law—Effective date—Severability—1993 c 340: See notes following RCW 77.65.010.

77.70.110 Dungeness crab—Puget Sound fishery license—Limitations—Qualifications. (1) A person shall not commercially take Dungeness crab (Cancer magister) in Puget Sound without first obtaining a Dungeness crab—Puget Sound fishery license. As used in this section, "Puget Sound" has the meaning given in RCW 77.65.160(5)(a). A Dungeness crab—Puget Sound fishery license is not required to take other species of crab, including red rock crab (Cancer productus).

(2) Except as provided in subsections (3) and (6) of this section, after January 1, 1982, the director shall issue no new Dungeness crab—Puget Sound fishery licenses. Only a person who meets the following qualification may renew an existing license: The person shall have held the Dungeness

crab—Puget Sound fishery license sought to be renewed during the previous year or acquired the license by transfer from someone who held it during the previous year, and shall not have subsequently transferred the license to another person.

(3) Where the person failed to obtain the license during the previous year because of a license suspension, the person may qualify for a license by establishing that the person held such a license during the last year in which the license was not suspended.

(4) This section does not restrict the issuance of commercial crab licenses for areas other than Puget Sound or for species other than Dungeness crab.

(5) Dungeness crab—Puget Sound fishery licenses are transferable from one license holder to another.

(6) If fewer than one hundred twenty-five persons are eligible for Dungeness crab—Puget Sound fishery licenses, the director may accept applications for new licenses. The director shall determine by random selection the successful applicants for the additional licenses. The number of additional licenses issued shall be sufficient to maintain one hundred twenty-five licenses in the Puget Sound Dungeness crab fishery. The director shall adopt rules governing the application, selection, and issuance procedures for new Dungeness crab—Puget Sound fishery licenses. [2000 c 107 § 65; 1999 c 151 § 1602; 1998 c 190 § 101. Prior: 1997 c 233 § 1; 1997 c 115 § 1; 1993 c 340 § 34; 1983 1st ex.s. c 46 § 147; 1982 c 157 § 1; 1980 c 133 § 4. Formerly RCW 75.30.130, 75.28.275.]

Finding, intent—Captions not law—Effective date—Severability—1993 c 340: See notes following RCW 77.65.010.

Legislative findings—1980 c 133: "The legislature finds that a significant commercial crab fishery is developing within Puget Sound. The legislature further finds that the crab fishery in Puget Sound represents a separate and distinct fishery from that of the coastal waters and is limited in quantity and is in need of conservation. The potential for depletion of the crab stocks in these waters is increasing, particularly as crab fishing becomes an attractive alternative to fishermen facing increasing restrictions on commercial salmon fishing.

The legislature finds that the number of commercial fishermen engaged in crab fishing has steadily increased. This factor, combined with advances in fishing and marketing techniques, has resulted in strong pressures on the supply of crab, unnecessary waste of an important natural resource, and economic loss to the citizens of the state.

The legislature finds that increased regulation of commercial crab fishing is necessary to preserve and efficiently manage the commercial crab fishery in the waters of Puget Sound." [1980 c 133 § 1.]

Additional notes found at www.leg.wa.gov

77.70.120 Herring fishery license—Limitations on issuance. (1) A person shall not fish commercially for herring in state waters without a herring fishery license. As used in this section, "herring fishery license" means any of the following commercial fishery licenses issued under RCW 77.65.200: Herring dip bag net; herring drag seine; herring gill net; herring lampara; herring purse seine.

(2) Except as provided in this section, a herring fishery license may be issued only to a person who held the license sought to be renewed during the previous year or acquired the license by transfer from someone who held it during the previous year, and if the person has not subsequently transferred the license to another person.

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(3) Herring fishery licenses may be renewed each year. A herring fishery license that is not renewed each year shall not be renewed further.

(4) The director may issue additional herring fishery licenses if the stocks of herring will not be jeopardized by granting additional licenses.

(5) Subject to the restrictions of RCW 77.65.020, herring fishery licenses are transferable from one license holder to another. [2000 c 107 § 66; 1998 c 190 § 102; 1993 c 340 § 35; 1983 1st ex.s. c 46 § 148; 1974 ex.s. c 104 § 1; 1973 1st ex.s. c 173 § 4. Formerly RCW 75.30.140, 75.28.420.]

Finding, intent—Captions not law—Effective date—Severability—1993 c 340: See notes following RCW 77.65.010.

Legislative findings—Purpose—1973 1st ex.s. c 173: "The legislature finds that a significant commercial herring fishing industry is presently developing in the state of Washington under the careful guidance of the department of fisheries. The legislature further finds that the stocks of herring within the waters of this state are limited in extent and are in need of strict preservation.

In addition, the legislature finds that the number of commercial fishermen engaged in fishing for herring has steadily increased. This factor, combined with advances made in fishing and marketing techniques, has resulted in strong pressures on the supply of herring, unnecessary waste in one of Washington's valuable resources, and economic loss to the citizens of this state. Therefore, it is the purpose of RCW 75.30.140 to establish reasonable procedures for controlling the extent of commercial herring fishing." [1983 1st ex.s. c 46 § 135; 1973 1st ex.s. c 173 § 2. Formerly RCW 75.28.390 and 75.28.400.]

77.70.130 Whiting-Puget Sound fishery license—Limitation on issuance. (1) A person shall not commercially take whiting from areas that the department designates within the waters described in RCW 77.65.160(5)(a) without a whiting-Puget Sound fishery license.

(2) A whiting-Puget Sound fishery license may be issued only to an individual who:

(a) Delivered at least fifty thousand pounds of whiting during the period from January 1, 1981, through February 22, 1985, as verified by fish delivery tickets;

(b) Possessed, on January 1, 1986, all equipment necessary to fish for whiting; and

(c) Held a whiting-Puget Sound fishery license during the previous year or acquired such a license by transfer from someone who held it during the previous year.

(3) After January 1, 1995, the director shall issue no new whiting-Puget Sound fishery licenses. After January 1, 1995, only an individual who meets the following qualifications may renew an existing license: The individual shall have held the license sought to be renewed during the previous year or acquired the license by transfer from someone who held it during the previous year, and shall not have subsequently transferred the license to another person.

(4) Whiting-Puget Sound fishery licenses may be renewed each year. A whiting-Puget Sound fishery license that is not renewed each year shall not be renewed further. [2000 c 107 § 67; 1993 c 340 § 39; 1986 c 198 § 5. Formerly RCW 75.30.170.]

Finding, intent—Captions not law—Effective date—Severability—1993 c 340: See notes following RCW 77.65.010.

77.70.140 Whiting-Puget Sound fishery license—Transferable to family members. A whiting-Puget Sound fishery license may be transferred through gift, devise, bequest, or descent to members of the license holder's immediate

diate family which shall be limited to spouse, children, or stepchildren. The holder of a whiting-Puget Sound fishery license shall be present on any vessel taking whiting under the license. In no instance may temporary permits be issued.

The director may adopt rules necessary to implement RCW 77.70.130 and 77.70.140. [2000 c 107 § 68; 1993 c 340 § 40; 1986 c 198 § 4. Formerly RCW 75.30.180.]

Finding, intent—Captions not law—Effective date—Severability—1993 c 340: See notes following RCW 77.65.010.

77.70.150 Sea urchin dive fishery license—Limitation on issuance—Transfer of license—Issuance of new licenses.

(1) A sea urchin dive fishery license is required to take sea urchins for commercial purposes. A sea urchin dive fishery license authorizes the use of only one diver in the water at any time during sea urchin harvest operations. If the same vessel has been designated on two sea urchin dive fishery licenses, two divers may be in the water. A natural person may not hold more than two sea urchin dive fishery licenses.

(2) Except as provided in subsection (5) of this section, the director shall issue no new sea urchin dive fishery licenses. For licenses issued for the year 2000 and thereafter, the director shall renew existing licenses only to a natural person who held the license at the end of the previous year. If a sea urchin dive fishery license is not held by a natural person as of December 31, 1999, it is not renewable. However, if the license is not held because of revocation or suspension of licensing privileges, the director shall renew the license in the name of a natural person at the end of the revocation or suspension if the license holder applies for renewal of the license before the end of the year in which the revocation or suspension ends.

(3) Where a licensee failed to obtain the license during the previous year because of a license suspension or revocation by the director or the court, the licensee may qualify for a license by establishing that the person held such a license during the last year in which the person was eligible.

(4) Sea urchin dive fishery licenses are transferable subject to the fees and restrictions in RCW 77.65.020(2).

(5) If fewer than twenty natural persons are eligible for sea urchin dive fishery licenses, the director may accept applications for new licenses. The additional licenses may not cause more than twenty natural persons to be eligible for a sea urchin dive fishery license. New licenses issued under this section shall be distributed according to rules of the department that recover the value of such licensed privilege. [2017 3rd sp.s. c 8 § 45; 2010 c 193 § 14; 2005 c 110 § 1; 2001 c 253 § 58; 1999 c 126 § 1; 1998 c 190 § 104; 1993 c 340 § 41; 1990 c 62 § 2; 1989 c 37 § 2. Formerly RCW 75.30.210.]

Finding—Intent—Effective date—2017 3rd sp.s. c 8: See notes following RCW 77.08.010.

Finding, intent—Captions not law—Effective date—Severability—1993 c 340: See notes following RCW 77.65.010.

Legislative finding—1990 c 62; 1989 c 37: "The legislature finds that a significant commercial sea urchin fishery is developing within state waters. The potential for depletion of the sea urchin stocks in these waters is increasing, particularly as the sea urchin fishery becomes an attractive alternative to fishermen facing increasing restrictions on other types of commercial fishery activities.

The legislature finds that the number of vessels engaged in commercial sea urchin fishing has steadily increased. This factor, combined with advances in marketing techniques, has resulted in strong pressures on the

supply of sea urchins. The legislature desires to maintain the livelihood of those vessel owners who have historically and continuously participated in the sea urchin fishery. The legislature desires that the director have the authority to consider extenuating circumstances concerning failure to meet landing requirements for both initial endorsement issuance and endorsement renewal.

The legislature finds that increased regulation of commercial sea urchin fishing is necessary to preserve and efficiently manage the commercial sea urchin fishery in the waters of the state. The legislature is aware that the continuing license provisions of the administrative procedure act, RCW 34.05.422(3) provide procedural safeguards, but finds that the pressure on the sea urchin resource endangers both the resource and the economic well-being of the sea urchin fishery, and desires, therefore, to exempt sea urchin endorsements from the continuing license provision." [1990 c 62 § 1; 1989 c 37 § 1.]

77.70.160 Emerging commercial fishery designation—Experimental fishery permits.

(1) The director may issue experimental fishery permits for commercial harvest in an emerging commercial fishery for which the director has determined there is a need to limit the number of participants. The director shall determine by rule the number and qualifications of participants for such experimental fishery permits. Only a person who holds an emerging commercial fishery license issued under RCW 77.65.400 and who meets the qualifications established in those rules may hold an experimental fishery permit. The director shall limit the number of these permits to prevent habitat damage, ensure conservation of the resource, and prevent overharvesting. In developing rules for limiting participation in an emerging or expanding commercial fishery, the director shall appoint a five-person advisory board representative of the affected fishery industry. The advisory board shall review and make recommendations to the director on rules relating to the number and qualifications of the participants for such experimental fishery permits.

(2) RCW 34.05.422(3) does not apply to applications for new experimental fishery permits.

(3) Experimental fishery permits are not transferable from the permit holder to any other person. [2000 c 107 § 69; 1993 c 340 § 42; 1990 c 63 § 2. Formerly RCW 75.30.220.]

Finding, intent—Captions not law—Effective date—Severability—1993 c 340: See notes following RCW 77.65.010.

Legislative finding—1990 c 63: "The legislature finds that:

(1) A number of commercial fisheries have emerged or expanded in the past decade;

(2) Scientific information is critical to the proper management of an emerging or expanding commercial fishery; and

(3) The scientific information necessary to manage an emerging or expanding commercial fishery can best be obtained through the use of limited experimental fishery permits allowing harvest levels that will preserve and protect the state's food fish and shellfish resource." [1990 c 63 § 1.]

77.70.170 Emerging commercial fishery designation—Legislative review.

Whenever the director promulgates a rule designating an emerging commercial fishery, the legislative standing committees of the house of representatives and senate dealing with fisheries issues shall be notified of the rule and its justification thirty days prior to the effective date of the rule. [1990 c 63 § 3. Formerly RCW 75.30.230.]

77.70.180 Emerging commercial fishery—License status—Recommendations to legislature—Information included in report.

(1) Within five years after adopting rules to govern the number and qualifications of participants

in an emerging commercial fishery, the director shall provide to the appropriate senate and house of representatives committees a report which outlines the status of the fishery and a recommendation as to whether a separate commercial fishery license, license fee, or limited harvest program should be established for that fishery.

(2) For any emerging commercial fishery designated under RCW 77.50.030, the report must also include:

(a) Information on the extent of the program, including to what degree mass marking and supplementation programs have been utilized in areas where emerging commercial fisheries using selective fishing gear have been authorized;

(b) Information on the benefit provided to commercial fishers including information on the effectiveness of emerging commercial fisheries using selective fishing gear in providing expanded fishing opportunity within mixed stocks of salmon;

(c) Information on the effectiveness of selective fishing gear in minimizing postrelease mortality for nontarget stocks, harvesting fish so that they are not damaged by the gear, and aiding the creation of niche markets; and

(d) Information on the department's efforts at operating hatcheries in an experimental fashion by managing wild and hatchery origin fish as a single run as an alternative to mass marking and the utilization of selective fishing gear. The department shall consult with commercial fishers, recreational fishers, federally recognized treaty tribes with a fishing right, regional fisheries enhancement groups, and other affected parties to obtain their input in preparing the report under this subsection (2). [2001 c 163 § 3; 1993 c 340 § 43; 1990 c 63 § 4. Formerly RCW 75.30.240.]

Finding, intent—Captions not law—Effective date—Severability—1993 c 340: See notes following RCW 77.65.010.

77.70.190 Sea cucumber dive fishery license—Limitation on issuance—Transfer of license—Fee—Issuance of new licenses. (1) A sea cucumber dive fishery license is required to take sea cucumbers for commercial purposes. A sea cucumber dive fishery license authorizes the use of only one diver in the water at any time during sea cucumber harvest operations. If the same vessel has been designated on two sea cucumber dive fishery licenses, two divers may be in the water. A natural person may not hold more than two sea cucumber dive fishery licenses.

(2) Except as provided in subsection (5) of this section, the director shall issue no new sea cucumber dive fishery licenses. For licenses issued for the year 2000 and thereafter, the director shall renew existing licenses only to a natural person who held the license at the end of the previous year. If a sea cucumber dive fishery license is not held by a natural person as of December 31, 1999, it is not renewable. However, if the license is not held because of revocation or suspension of licensing privileges, the director shall renew the license in the name of a natural person at the end of the revocation or suspension if the license holder applies for renewal of the license before the end of the year in which the revocation or suspension ends.

(3) Where a licensee failed to obtain the license during either of the previous two years because of a license suspension by the director or the court, the licensee may qualify for

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a license by establishing that the person held such a license during the last year in which the person was eligible.

(4) Sea cucumber dive fishery licenses are transferable subject to the fees and restrictions in RCW 77.65.020(2).

(5) If fewer than twenty persons are eligible for sea cucumber dive fishery licenses, the director may accept applications for new licenses. The additional licenses may not cause more than twenty natural persons to be eligible for a sea cucumber dive fishery license. New licenses issued under this section shall be distributed according to rules of the department that recover the value of such licensed privilege. [2017 3rd sp.s. c 8 § 46; 2011 c 339 § 33; 2010 c 193 § 15; 2005 c 110 § 2; 2001 c 253 § 59; 1999 c 126 § 2; 1998 c 190 § 105; 1993 c 340 § 44; 1990 c 61 § 2. Formerly RCW 75.30.250.]

Finding—Intent—Effective date—2017 3rd sp.s. c 8: See notes following RCW 77.08.010.

Effective date—2011 c 339: See note following RCW 43.84.092.

Finding, intent—Captions not law—Effective date—Severability—1993 c 340: See notes following RCW 77.65.010.

Legislative findings—1990 c 61: "The legislature finds that a significant commercial sea cucumber fishery is developing within state waters. The potential for depletion of the sea cucumber stocks in these waters is increasing, particularly as the sea cucumber fishery becomes an attractive alternative to commercial fishers who face increasing restrictions on other types of commercial fishery activities.

The legislature finds that the number of commercial fishers engaged in commercial harvesting sea cucumbers has rapidly increased. This factor, combined with increases in market demand, has resulted in strong pressures on the supply of sea cucumbers.

The legislature finds that increased regulation of commercial sea cucumber fishing is necessary to preserve and efficiently manage the commercial sea cucumber fishery in the waters of the state.

The legislature finds that it is desirable in the long term to reduce the number of vessels participating in the commercial sea cucumber fishery to fifty vessels to preserve the sea cucumber resource, efficiently manage the commercial sea cucumber fishery in the waters of the state, and reduce conflict with upland owners.

The legislature finds that it is important to preserve the livelihood of those who have historically participated in the commercial sea cucumber fishery that began about 1970 and that the 1988 and 1989 seasons should be used to document historical participation." [1990 c 61 § 1.]

77.70.200 Herring spawn on kelp fishery licenses—Number limited. The legislature finds that the wise management of Washington state's herring resource is of paramount importance to the people of the state. The legislature finds that herring are an important part of the food chain for a number of the state's living marine resources. The legislature finds that both open and closed pond "spawn on kelp" harvesting techniques allow for an economic return to the state while at the same time providing for the proper management of the herring resource. The legislature finds that limitations on the number of herring harvesters tends to improve the management and economic health of the herring industry. The maximum number of herring spawn on kelp fishery licenses shall not exceed five annually. The state therefore must use its authority to regulate the number of herring spawn on kelp fishery licenses so that the management and economic health of the herring fishery may be improved. [1993 c 340 § 36; 1989 c 176 § 1. Formerly RCW 75.30.260, 75.28.235.]

Finding, intent—Captions not law—Effective date—Severability—1993 c 340: See notes following RCW 77.65.010.

77.70.210 Herring spawn on kelp fishery license—Auction. (1) A herring spawn on kelp fishery license is required to commercially take herring eggs which have been deposited on vegetation of any type.

(2) A herring spawn on kelp fishery license may be issued only to a person who:

(a) Holds a herring fishery license issued under RCW 77.65.200 and 77.70.120; and

(b) Is the highest bidder in an auction conducted under subsection (3) of this section.

(3) The department shall sell herring spawn on kelp commercial fishery licenses at auction to the highest bidder. Bidders shall identify their sources of kelp. Kelp harvested from state-owned aquatic lands as defined in *RCW 79.90.465 requires the written consent of the department of natural resources. The department shall give all holders of herring fishery licenses thirty days' notice of the auction. [2000 c 107 § 70; 1993 c 340 § 37; 1989 c 176 § 2. Formerly RCW 75.30.270, 75.28.245.]

*Reviser's note: RCW 79.90.465 was repealed by 2005 c 155 § 1013.

Finding, intent—Captions not law—Effective date—Severability—1993 c 340: See notes following RCW 77.65.010.

77.70.220 Geoduck fishery license—Fees—Conditions and limitations—OSHA regulations—Violations—Vessel identification number/fee. (1) A person shall not harvest geoduck clams commercially without a geoduck fishery license. This section does not apply to the harvest of private sector cultured aquatic products as defined in RCW 15.85.020. The geoduck fishery license fee and the application fee are specified in RCW 77.65.220.

(2) Only a person who has entered into a geoduck harvesting agreement with the department of natural resources under RCW 79.135.210 may hold a geoduck fishery license.

(3) A geoduck fishery license authorizes no taking of geoducks outside the boundaries of the public lands designated in the underlying harvesting agreement, or beyond the harvest ceiling set in the underlying harvesting agreement.

(4) A geoduck fishery license expires when the underlying geoduck harvesting agreement terminates.

(5) The director shall determine the number of geoduck fishery licenses that may be issued for each geoduck harvesting agreement, the number of units of gear whose use the license authorizes, and the type of gear that may be used, subject to RCW 77.60.070. In making those determinations, the director shall seek to conserve the geoduck resource and prevent damage to its habitat.

(6) The holder of a geoduck fishery license and the holder's agents and representatives shall comply with all applicable commercial diving safety regulations adopted by the federal occupational safety and health administration established under the federal occupational safety and health act of 1970 as such law exists on May 8, 1979, 84 Stat. 1590 et seq.; 29 U.S.C. Sec. 651 et seq. A violation of those regulations is a violation of this subsection. For the purposes of this section, persons who dive for geoducks are "employees" as defined by the federal occupational safety and health act. A violation of this subsection is grounds for suspension or revocation of a geoduck fishery license following a hearing under the procedures of chapter 34.05 RCW. The director shall not suspend or revoke a geoduck fishery license if the

violation has been corrected within ten days of the date the license holder receives written notice of the violation. If there is a substantial probability that a violation of the commercial diving standards could result in death or serious physical harm to a person engaged in harvesting geoduck clams, the director shall suspend the license immediately until the violation has been corrected. If the license holder is not the operator of the harvest vessel and has contracted with another person for the harvesting of geoducks, the director shall not suspend or revoke the license if the license holder terminates its business relationship with that person until compliance with this subsection is secured.

(7) A person using a vessel in the geoduck fishery is required to apply for and obtain a vessel identification number from the department. The application fee for the vessel identification number is one hundred five dollars. [2017 3rd sp.s. c 8 § 47; 2011 c 339 § 34; 2000 c 107 § 71; 1998 c 190 § 106; 1993 c 340 § 46. Formerly RCW 75.30.280.]

Finding—Intent—Effective date—2017 3rd sp.s. c 8: See notes following RCW 77.08.010.

Effective date—2011 c 339: See note following RCW 43.84.092.

Finding, intent—Captions not law—Effective date—Severability—1993 c 340: See notes following RCW 77.65.010.

77.70.230 Ocean pink shrimp—Delivery license—Requirements and criteria—Continuous participation. A person shall not commercially deliver into any Washington state port ocean pink shrimp caught in offshore waters without an ocean pink shrimp delivery license issued under RCW 77.65.390, or an ocean pink shrimp single delivery license issued under RCW 77.70.260. An ocean pink shrimp delivery license shall be issued to a vessel that:

(1) Landed a total of at least five thousand pounds of ocean pink shrimp in Washington in any single calendar year between January 1, 1983, and December 31, 1992, as documented by a valid shellfish receiving ticket; and

(2) Can show continuous participation in the Washington, Oregon, or California ocean pink shrimp fishery by being eligible to land ocean pink shrimp in either Washington, Oregon, or California each year since the landing made under subsection (1) of this section. Evidence of such eligibility shall be a certified statement from the relevant state licensing agency that the applicant for a Washington ocean pink shrimp delivery license held at least one of the following permits:

(a) For Washington: Possession of a delivery permit or delivery license issued under RCW 77.65.210;

(b) For Oregon: Possession of a vessel permit issued under Oregon Revised Statute 508.880; or

(c) For California: A trawl permit issued under California Fish and Game Code sec. 8842. [2000 c 107 § 72; 1998 c 190 § 107; 1993 c 376 § 5. Formerly RCW 75.30.290.]

Findings—Effective date—1993 c 376: See notes following RCW 77.65.380.

77.70.240 Ocean pink shrimp—Delivery license—Requirements and criteria—Historical participation. An applicant who can show historical participation under RCW 77.70.230(1) but does not satisfy the continuous participation requirement of RCW 77.70.230(2) shall be issued an ocean pink shrimp delivery license if:

(1) The owner can prove that the owner was in the process on December 31, 1992, of constructing a vessel for the purpose of ocean pink shrimp harvest. For purposes of this section, "construction" means having the keel laid, and "for the purpose of ocean pink shrimp harvest" means the vessel is designed as a trawl vessel. An ocean pink shrimp delivery license issued to a vessel under construction is not renewable after December 31, 1994, unless the vessel lands a total of at least five thousand pounds of ocean pink shrimp into a Washington state port before December 31, 1994; or

(2) The applicant's vessel is a replacement for a vessel that is otherwise eligible for an ocean pink shrimp delivery license. [2000 c 107 § 73; 1993 c 376 § 6. Formerly RCW 75.30.300.]

Findings—Effective date—1993 c 376: See notes following RCW 77.65.380.

77.70.250 Ocean pink shrimp—Delivery license—License transfer—License suspension. After December 31, 1994, an ocean pink shrimp delivery license may only be issued to a vessel that held an ocean pink shrimp delivery license in 1994, and each year thereafter. If the license is transferred to another vessel, the license history shall also be transferred to the transferee vessel.

Where the failure to hold the license in any given year was the result of a license suspension, the vessel may qualify if the vessel held an ocean pink shrimp delivery license in the year immediately preceding the year of the license suspension. [1993 c 376 § 7. Formerly RCW 75.30.310.]

Findings—Effective date—1993 c 376: See notes following RCW 77.65.380.

77.70.260 Ocean pink shrimp—Single delivery license—Fees. The owner of an ocean pink shrimp fishing vessel that does not qualify for an ocean pink shrimp delivery license issued under RCW 77.65.390 shall obtain an ocean pink shrimp single delivery license in order to make a landing into a state port of ocean pink shrimp taken in offshore waters. The director shall not issue an ocean pink shrimp single delivery license unless, as determined by the director, a bona fide emergency exists. A maximum of six ocean pink shrimp single delivery licenses may be issued annually to any vessel. The fee for an ocean pink shrimp single delivery license is one hundred dollars. The application fee is one hundred five dollars. [2011 c 339 § 35; 2000 c 107 § 74; 1993 c 376 § 8. Formerly RCW 75.30.320.]

Effective date—2011 c 339: See note following RCW 43.84.092.

Findings—Effective date—1993 c 376: See notes following RCW 77.65.380.

77.70.280 Crab fishery—License required—Dungeness crab-coastal fishery license—Coastal crab and replacement vessel defined—Federal fleet reduction program. (1) A person shall not commercially fish for coastal crab in Washington state waters without a Dungeness crab—coastal fishery license. Gear used must consist of one buoy attached to each crab pot. Each crab pot must be fished individually.

(2) A Dungeness crab—coastal fishery license is transferable. Except as provided in subsections (3) and (7) of this section, such a license shall only be issued to a person who

proved active historical participation in the coastal crab fishery by having designated, after December 31, 1993, a vessel or a replacement vessel on the qualifying license that singly or in combination meets the following criteria:

(a) Made a minimum of eight coastal crab landings totaling a minimum of five thousand pounds per season in at least two of the four qualifying seasons identified in subsection (4) of this section, as documented by valid Washington state shellfish receiving tickets; and showed historical and continuous participation in the coastal crab fishery by having held one of the following licenses or their equivalents each calendar year beginning 1990 through 1993, and was designated on the qualifying license of the person who held one of the following licenses in 1994:

(i) Crab pot—Non-Puget Sound license, issued under *RCW 77.65.220(1)(b);

(ii) Nonsalmon delivery license, issued under RCW 77.65.210;

(iii) Salmon troll license, issued under RCW 77.65.160;

(iv) Salmon delivery license, issued under RCW 77.65.170;

(v) Food fish trawl license, issued under RCW 77.65.200; or

(vi) Shrimp trawl license, issued under RCW 77.65.220;

or

(b) Made a minimum of four Washington landings of coastal crab totaling two thousand pounds during the period from December 1, 1991, to March 20, 1992, and made a minimum of eight crab landings totaling a minimum of five thousand pounds of coastal crab during each of the following periods: December 1, 1991, to September 15, 1992; December 1, 1992, to September 15, 1993; and December 1, 1993, to September 15, 1994. For landings made after December 31, 1993, the vessel shall have been designated on the qualifying license of the person making the landings; or

(c) Made any number of coastal crab landings totaling a minimum of twenty thousand pounds per season in at least two of the four qualifying seasons identified in subsection (4) of this section, as documented by valid Washington state shellfish receiving tickets, showed historical and continuous participation in the coastal crab fishery by having held one of the qualifying licenses each calendar year beginning 1990 through 1993, and the vessel was designated on the qualifying license of the person who held that license in 1994.

(3) A Dungeness crab-coastal fishery license shall be issued to a person who had a new vessel under construction between December 1, 1988, and September 15, 1992, if the vessel made coastal crab landings totaling a minimum of five thousand pounds by September 15, 1993, and the new vessel was designated on the qualifying license of the person who held that license in 1994. All landings shall be documented by valid Washington state shellfish receiving tickets. License applications under this subsection may be subject to review by the advisory review board in accordance with **RCW 77.70.030. For purposes of this subsection, "under construction" means either:

(a)(i) A contract for any part of the work was signed before September 15, 1992; and

(ii) The contract for the vessel under construction was not transferred or otherwise alienated from the contract

holder between the date of the contract and the issuance of the Dungeness crab-coastal fishery license; and

(iii) Construction had not been completed before December 1, 1988; or

(b)(i) The keel was laid before September 15, 1992; and

(ii) Vessel ownership was not transferred or otherwise alienated from the owner between the time the keel was laid and the issuance of the Dungeness crab-coastal fishery license; and

(iii) Construction had not been completed before December 1, 1988.

(4) The four qualifying seasons for purposes of this section are:

(a) December 1, 1988, through September 15, 1989;

(b) December 1, 1989, through September 15, 1990;

(c) December 1, 1990, through September 15, 1991; and

(d) December 1, 1991, through September 15, 1992.

(5) For purposes of this section and RCW 77.70.340, "coastal crab" means Dungeness crab (cancer magister) taken in all Washington territorial and offshore waters south of the United States-Canada boundary and west of the Bonilla-Tatoosh line (a line from the western end of Cape Flattery to Tatoosh Island lighthouse, then to the buoy adjacent to Duntz Rock, then in a straight line to Bonilla Point of Vancouver island), Grays Harbor, Willapa Bay, and the Columbia river.

(6) For purposes of this section, "replacement vessel" means a vessel used in the coastal crab fishery in 1994, and that replaces a vessel used in the coastal crab fishery during any period from 1988 through 1993, and which vessel's licensing and catch history, together with the licensing and catch history of the vessel it replaces, qualifies a single applicant for a Dungeness crab—coastal license. A Dungeness crab—coastal license may only be issued to a person who designated a vessel in the 1994 coastal crab fishery and who designated the same vessel in 1995.

(7) A Dungeness crab—coastal fishery license may not be issued to a person who participates in the federal fleet reduction program created in RCW 77.70.460 within ten years of that person's participation in the federal program, if reciprocal restrictions are imposed by the states of Oregon and California on persons participating in the federal fleet reduction program. [2017 3rd sp.s. c 8 § 48; 2003 c 174 § 5; 2000 c 107 § 76; 1998 c 190 § 108; 1995 c 252 § 1; 1994 c 260 § 2. Formerly RCW 75.30.350.]

Reviser's note: *(1) RCW 77.65.220 was amended by 2017 3rd sp.s. c 8 § 27, removing subsection (1)(b), effective January 1, 2018.

***(2) RCW 77.70.030 was repealed by 2001 c 291 § 501, effective July 1, 2001.

Finding—Intent—Effective date—2017 3rd sp.s. c 8: See notes following RCW 77.08.010.

Finding—1994 c 260: "The legislature finds that the commercial crab fishery in coastal and offshore waters is overcapitalized. The legislature further finds that this overcapitalization has led to the economic destabilization of the coastal crab industry, and can cause excessive harvesting pressures on the coastal crab resources of Washington state. In order to provide for the economic well-being of the Washington crab industry and to protect the livelihood of Washington crab fishers who have historically and continuously participated in the coastal crab fishery, the legislature finds that it is in the best interests of the economic well-being of the coastal crab industry to reduce the number of fishers taking crab in coastal waters, to reduce the number of vessels landing crab taken in offshore waters, to limit the number of future licenses, and to limit fleet capacity by limiting vessel size." [1994 c 260 § 1.]

Additional notes found at www.leg.wa.gov

77.70.290 Crab taken in offshore waters—Criteria for landing in Washington state—Limitations. (1) The director shall allow the landing into Washington state of crab taken in offshore waters only if:

(a) The crab are legally caught and landed by fishers with a valid Washington state Dungeness crab-coastal fishery license; or

(b)(i) The director determines that the landing of offshore Dungeness crab by fishers without a Washington state Dungeness crab-coastal fishery license is in the best interest of the coastal crab processing industry; (ii) the director has been requested to allow such landings by at least three Dungeness crab processors; (iii) the landings are permitted only between the dates of December 1st to February 15th inclusively; (iv) only crab fishers commercially licensed to fish by Oregon or California are permitted to land, if the crab was taken with gear that consisted of one buoy attached to each crab pot, and each crab pot was fished individually; (v) the fisher landing the crab has obtained a valid delivery license; and (vi) the decision is made on a case-by-case basis for the sole reason of improving the economic stability of the commercial crab fishery.

(2) Nothing in this section allows the commercial fishing of Dungeness crab in waters within three miles of Washington state by fishers who do not possess a valid Dungeness crab-coastal fishery license. Landings of offshore Dungeness crab by fishers without a valid Dungeness crab-coastal fishery license do not qualify the fisher for such licenses. [2017 3rd sp.s. c 8 § 49; 1997 c 418 § 2; 1994 c 260 § 3. Formerly RCW 75.30.360.]

Finding—Intent—Effective date—2017 3rd sp.s. c 8: See notes following RCW 77.08.010.

Finding—Severability—1994 c 260: See notes following RCW 77.70.280.

Additional notes found at www.leg.wa.gov

77.70.300 Crab taken in offshore waters—Dungeness crab offshore delivery license—Fee. A person commercially fishing for Dungeness crab in offshore waters outside of Washington state jurisdiction shall obtain a Dungeness crab offshore delivery license from the director if the person does not possess a valid Dungeness crab-coastal fishery license and the person wishes to land Dungeness crab into a place or a port in the state. The annual fee for a Dungeness crab offshore delivery license is two hundred fifty dollars. The director may specify restrictions on landings of offshore Dungeness crab in Washington state as authorized in RCW 77.70.290.

Fees from the offshore Dungeness crab delivery license shall be placed in the coastal crab account created in RCW 77.70.320. [2017 3rd sp.s. c 8 § 50; 2000 c 107 § 77; 1994 c 260 § 4. Formerly RCW 75.30.370.]

Finding—Intent—Effective date—2017 3rd sp.s. c 8: See notes following RCW 77.08.010.

Finding—Severability—1994 c 260: See notes following RCW 77.70.280.

Additional notes found at www.leg.wa.gov

77.70.310 Transfer of Dungeness crab-coastal fishery licenses—Fee. Dungeness crab-coastal fishery licenses are freely transferable on a willing seller-willing buyer basis

after paying the transfer fee in RCW 77.65.020. [2000 c 107 § 78; 1997 c 418 § 3; 1994 c 260 § 5. Formerly RCW 75.30.380.]

Finding—Severability—1994 c 260: See notes following RCW 77.70.280.

Additional notes found at www.leg.wa.gov

77.70.320 Coastal crab account—Created—Revenues—Expenditures. The coastal crab account is created in the custody of the state treasurer. The account shall consist of revenues from fees from the transfer of each Dungeness crab-coastal fishery license assessed under RCW 77.65.020, delivery fees assessed under RCW 77.70.300, and the license surcharge under RCW 77.65.240. Only the director or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW but no appropriation is required for expenditures. Funds may be used for coastal crab management activities as provided in RCW 77.70.330. [2000 c 107 § 79; 1997 c 418 § 4; 1994 c 260 § 6. Formerly RCW 75.30.390.]

Finding—Severability—1994 c 260: See notes following RCW 77.70.280.

77.70.330 Coastal crab account expenditures—Management of coastal crab resource. Expenditures from the coastal crab account may be made by the department for management of the coastal crab resource. Management activities may include studies of resource viability, interstate negotiations concerning regulation of the offshore crab resource, resource enhancement projects, or other activities as determined by the department. [1994 c 260 § 8. Formerly RCW 75.30.410.]

Finding—Severability—1994 c 260: See notes following RCW 77.70.280.

Additional notes found at www.leg.wa.gov

77.70.340 Criteria for nonresident Dungeness crab-coastal fishery license for Oregon residents—Section effective contingent upon reciprocal statutory authority in Oregon. (1) An Oregon resident who can show historical and continuous participation in the Washington state coastal crab fishery by having held a nonresident non-Puget Sound crab pot license issued under RCW 77.65.220 each year from 1990 through 1994, and who has delivered a minimum of eight landings totaling five thousand pounds of crab into Oregon during any two of the four qualifying seasons as provided in *RCW 77.70.280(5) as evidenced by valid Oregon fish-receiving tickets, shall be issued a nonresident Dungeness crab-coastal fishery license valid for fishing in Washington state waters north from the Oregon-Washington boundary to United States latitude forty-six degrees thirty minutes north. Such license shall be issued upon application and submission of proof of delivery.

(2) This section shall become effective contingent upon reciprocal statutory authority in the state of Oregon providing for equal access for Washington state coastal crab fishers to Oregon territorial coastal waters north of United States latitude forty-five degrees fifty-eight minutes north, and Oregon waters of the Columbia river. [2000 c 107 § 80; 1994 c 260 § 9. Formerly RCW 75.30.420.]

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***Reviser's note:** RCW 77.70.280 was amended by 2017 3rd sp.s. c 8 § 48, changing subsection (5) to subsection (4), effective January 1, 2018.

Finding—Severability—1994 c 260: See notes following RCW 77.70.280.

Additional notes found at www.leg.wa.gov

77.70.350 Restrictions on vessel designations and substitutions on Dungeness crab-coastal fishery licenses.

(1) The following restrictions apply to vessel designations and substitutions on Dungeness crab-coastal fishery licenses:

(a) The holder of the license may not:

(i) Designate on the license a vessel the hull length of which exceeds ninety-nine feet; or

(ii) Change vessel designation if the hull length of the vessel proposed to be designated exceeds the hull length designated on the license on June 7, 2006, by more than ten feet. However, if such vessel designation is the result of an emergency transfer, the applicable vessel length would be the most recent permanent vessel designation on the license prior to June 7, 2006;

(b) If the hull length of the vessel proposed to be designated is comparable to or exceeds by up to one foot the hull length of the currently designated vessel, the department may change the vessel designation no more than once in any one-year period, measured from September 15th to September 15th of the following year, unless the currently designated vessel is lost or in disrepair such that it does not safely operate, in which case the department may allow a change in vessel designation;

(c) If the hull length of the vessel proposed to be designated exceeds by between one and ten feet the hull length of the designated vessel on June 7, 2006, the department may change the vessel designation no more than once on or after June 7, 2006, unless a request is made by the license holder during a Washington state coastal crab season for an emergency change in vessel designation. If such an emergency request is made, the director may allow a temporary change in designation to another vessel, if the hull length of the other vessel does not exceed by more than ten feet the hull length of the currently designated vessel.

(2) For the purposes of this section, "hull length" means the length overall of a vessel's hull as shown by marine survey or by manufacturer's specifications.

(3) By December 31, 2010, the department must, in cooperation with the coastal crab fishing industry, evaluate the effectiveness of this section and, if necessary, recommend any statutory changes to the appropriate committees of the senate and house of representatives. [2010 c 193 § 13; 2006 c 159 § 1; 1994 c 260 § 10. Formerly RCW 75.30.430.]

Finding—Severability—1994 c 260: See notes following RCW 77.70.280.

Additional notes found at www.leg.wa.gov

77.70.360 Dungeness crab-coastal fishery licenses—Limitation on new licenses—Requirements for renewal.

Except as provided under *RCW 77.70.380, the director shall issue no new Dungeness crab-coastal fishery licenses after December 31, 1995. A person may renew an existing license only if the person held the license sought to be renewed during the previous year or acquired the license by transfer from someone who held it during the previous year, and if the

person has not subsequently transferred the license to another person. Where the person failed to obtain the license during the previous year because of a license suspension, the person may qualify for a license by establishing that the person held such a license during the last year in which the license was not suspended. [2000 c 107 § 81; 1994 c 260 § 13. Formerly RCW 75.30.440.]

*Reviser's note: RCW 77.70.380 was repealed by 2003 c 174 § 6.

Finding—Severability—1994 c 260: See notes following RCW 77.70.280.

Additional notes found at www.leg.wa.gov

77.70.370 Limitation on taking crab in the exclusive economic zone of Oregon or California—Section effective contingent upon reciprocal legislation by both Oregon and California. (1) A Dungeness crab—coastal fishery licensee shall not take Dungeness crab in the waters of the exclusive economic zone westward of the states of Oregon or California and land crab taken in those waters into Washington state unless the licensee also holds the licenses, permits, or endorsements, required by Oregon or California to land crab into Oregon or California, respectively.

(2) This section becomes effective only upon reciprocal legislation being enacted by both the states of Oregon and California. For purposes of this section, "exclusive economic zone" means that zone defined in the federal fishery conservation and management act (16 U.S.C. Sec. 1802) as of January 1, 1995, or as of a subsequent date adopted by rule of the director. [1998 c 190 § 109; 1994 c 260 § 16. Formerly RCW 75.30.450.]

Finding—Severability—1994 c 260: See notes following RCW 77.70.280.

Additional notes found at www.leg.wa.gov

77.70.390 Reduction of landing requirements under RCW 77.70.280—Procedure. The director may reduce the landing requirements established under RCW 77.70.280 upon the recommendation of an advisory review board established under *RCW 77.70.030, but the director may not entirely waive the landing requirement. The advisory review board may recommend a reduction of the landing requirement in individual cases if in the advisory review board's judgment, extenuating circumstances prevented achievement of the landing requirement. The director shall adopt rules governing the operation of the advisory review board and defining "extenuating circumstances." Extenuating circumstances may include situations in which a person had a vessel under construction such that qualifying landings could not be made. In defining extenuating circumstances, special consideration shall be given to individuals who can provide evidence of lack of access to capital based on past discrimination due to race, creed, color, sex, national origin, or disability. [2000 c 107 § 83; 1994 c 260 § 19. Formerly RCW 75.30.470.]

*Reviser's note: RCW 77.70.030 was repealed by 2001 c 291 § 501, effective July 1, 2001.

Finding—Severability—1994 c 260: See notes following RCW 77.70.280.

Additional notes found at www.leg.wa.gov

77.70.400 Coastal Dungeness crab resource plan.

The department, with input from Dungeness crab—coastal fishery licensees and processors, shall prepare a resource plan to achieve even-flow harvesting and long-term stability of the coastal Dungeness crab resource. The plan may include pot limits, further reduction in the number of vessels, individual quotas, trip limits, area quotas, or other measures as determined by the department. The provisions of such a resource plan that are designed to effect a gear reduction or effort reduction based upon historical landing criteria are subject to the provisions of RCW 77.70.390 with respect to the consideration of extenuating circumstances. [2001 c 228 § 1; 1998 c 245 § 154; 1994 c 260 § 20. Formerly RCW 75.30.480.]

Finding—Severability—1994 c 260: See notes following RCW 77.70.280.

77.70.410 Shrimp pot-Puget Sound fishery—Limited entry fishery—License analogous to personal property—Transferability—Alternate operator designation.

(1) The shrimp pot-Puget Sound fishery is a limited entry fishery and a person shall not fish for shrimp taken from Puget Sound for commercial purposes with shrimp pot gear except under the provisions of a shrimp pot-Puget Sound fishery license issued under RCW 77.65.220.

(2) A shrimp pot-Puget Sound fishery license shall only be issued to a natural person who held a shrimp pot-Puget Sound fishery license during the previous year, except upon the death of the licensee the license shall be treated as analogous to personal property for purposes of inheritance and intestacy.

(3) No more than two shrimp pot-Puget Sound fishery licenses may be owned by a licensee. The licensee must transfer the second license into the licensee's name, and designate on the second license the same vessel as is designated on the first license at the time of the transfer. Licensees who hold two shrimp pot-Puget Sound fishery licenses may not transfer one of the two licenses for a twelve-month period beginning on the date the second license is transferred to the licensee, but the licensee may transfer both licenses to another natural person. The nontransferability provisions of this subsection start anew for the receiver of the two licenses. Licensees who hold two shrimp pot-Puget sound fishery licenses may fish one and one-half times the maximum number of pots allowed for Puget Sound shrimp, and may retain and land one and one-half times the maximum catch limits established for Puget Sound shrimp taken with shellfish pot gear.

(4) Through December 31, 2001, shrimp pot-Puget Sound fishery licenses are transferable only to a current shrimp pot-Puget Sound fishery licensee, or upon death of the licensee. Beginning January 1, 2002, shrimp pot-Puget Sound commercial fishery licenses are transferable, except holders of two shrimp pot-Puget Sound licenses are subject to nontransferability provisions as provided for in this section.

(5) Through December 31, 2001, a shrimp pot-Puget Sound licensee may designate any natural person as the alternate operator for the license. Beginning January 1, 2002, a shrimp pot-Puget Sound licensee may designate only an immediate family member, as defined in RCW 77.12.047, as the alternate operator. A licensee with a bona fide medical emergency may designate a person other than an immediate

family member as the alternate operator for a period not to exceed two years, provided the licensee documents the medical emergency with letters from two medical doctors describing the illness or condition that prevents the licensee from participating in the fishery. The two-year period may be extended by the director upon recommendation of a department-appointed Puget Sound shrimp advisory board. If the licensee has no immediate family member who is capable of operating the license, the licensee may make a request to the Puget Sound shrimp advisory board to designate an alternate operator who is not an immediate family member, and upon recommendation of the Puget Sound shrimp advisory board, the director may allow designation of an alternate operator who is not an immediate family member. [2001 c 105 § 1; 2000 c 107 § 84; 1999 c 239 § 3. Formerly RCW 75.30.490.]

Finding—Purpose—Intent—1999 c 239: See note following RCW 77.65.220.

77.70.420 Shrimp trawl-Puget Sound fishery—Limited entry fishery—License analogous to personal property—Transferability—Alternate operator. (1) The shrimp trawl-Puget Sound fishery is a limited entry fishery and a person shall not fish for shrimp taken from Puget Sound for commercial purposes with shrimp trawl gear except under the provisions of a shrimp trawl-Puget Sound fishery license issued under RCW 77.65.220.

(2) A shrimp trawl-Puget Sound fishery license shall only be issued to a natural person who held a shrimp trawl-Puget Sound fishery license during the previous licensing year, except upon the death of the licensee the license shall be treated as analogous to personal property for purposes of inheritance and intestacy.

(3) No more than one shrimp trawl-Puget Sound fishery license may be owned by a licensee.

(4) Through December 31, 2001, shrimp trawl-Puget Sound fishery licenses are nontransferable, except upon death of the licensee. Beginning January 1, 2002, shrimp trawl-Puget Sound licenses are transferable.

(5) Through December 31, 2001, a shrimp trawl-Puget Sound licensee may designate any natural person as the alternate operator for the license. Beginning January 1, 2002, a shrimp trawl-Puget Sound licensee may designate only an immediate family member, as defined in RCW 77.12.047, as the alternate operator. A licensee with a bona fide medical emergency may designate a person other than an immediate family member as the alternate operator for a period not to exceed two years, provided the licensee documents the medical emergency with letters from two medical doctors describing the illness or condition that prevents the immediate family member from participating in the fishery. The two-year period may be extended by the director upon recommendation of a department-appointed Puget Sound shrimp advisory board. If the licensee has no immediate family member who is capable of operating the license, the licensee may make a request to the Puget Sound shrimp advisory board to designate an alternate operator who is not an immediate family member, and upon recommendation of the Puget Sound shrimp advisory board, the director may allow designation of an alternate operator who is not an immediate family member. [2001 c 105 § 2; 2000 c 107 § 85; 1999 c 239 § 4. Formerly RCW 75.30.500.]

(2021 Ed.)

Finding—Purpose—Intent—1999 c 239: See note following RCW 77.65.220.

77.70.430 Puget Sound crab pot buoy tag program—Fee—Coastal crab pot buoy tag program—Fee—Review.

(1) In order to administer a Puget Sound crab pot buoy tag program, the department may charge a fee to holders of a Dungeness crab—Puget Sound fishery license to reimburse the department for the production of Puget Sound crab pot buoy tags and the administration of a Puget Sound crab pot buoy tag program.

(2) In order to administer a Washington coastal Dungeness crab pot buoy tag program, the department may charge a fee to holders of a Dungeness crab—coastal fishery license and to holders of out-of-state licenses who are issued a pot certificate by the department to reimburse the department for the production of Washington coastal crab pot buoy tags and the administration of a Washington coastal crab pot buoy tag program.

(3) The department shall annually review the costs of crab pot buoy tag production under this section with the goal of minimizing the per tag production costs. Any savings in production costs shall be passed on to the fishers required to purchase crab pot buoy tags under this section in the form of a lower tag fee. [2017 3rd sp.s. c 8 § 51; 2006 c 143 § 1; 2005 c 395 § 1; 2001 c 234 § 1.]

Finding—Intent—Effective date—2017 3rd sp.s. c 8: See notes following RCW 77.08.010.

Additional notes found at www.leg.wa.gov

77.70.440 Puget Sound crab pot buoy tag account.

The Puget Sound crab pot buoy tag account is created in the custody of the state treasurer. All revenues from fees from RCW 77.70.430(1) must be deposited into the account. Expenditures from this account may be used for the production of crab pot buoy tags and the administration of a Puget Sound crab pot buoy tag program. Only the director or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW but no appropriation is required for expenditures. [2005 c 395 § 2; 2001 c 234 § 2.]

Additional notes found at www.leg.wa.gov

77.70.442 Washington coastal crab pot buoy tag account.

The Washington coastal crab pot buoy tag account is created in the custody of the state treasurer. All revenues from fees from RCW 77.70.430(2) must be deposited into the account. Expenditures from this account may be used for the production of crab pot buoy tags and the administration of a Washington coastal crab pot buoy tag program. Only the director or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW but no appropriation is required for expenditures. [2005 c 395 § 3.]

77.70.450 Commercial fisheries buyback account.

The commercial fisheries buyback account is created in the custody of the state treasurer. All receipts from money collected by the commission under RCW 77.70.460, moneys appropriated for the purposes of this section, and other gifts, grants, or donations specifically made to the fund must be

deposited into the account. Expenditures from the account may be used only for the purpose of repaying moneys advanced by the federal government under a groundfish fleet reduction program established by the federal government, or for other fleet reduction efforts, commercial fishing license buyback programs, or similar programs designed to reduce the harvest capacity in a commercial fishery. Only the director of the department or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. [2003 c 174 § 1.]

77.70.460 Collection of fee—Fee schedule—Deposit of moneys. (Contingent expiration date.) (1) The commission shall collect a fee upon all deliveries of fish or shellfish from persons holding: (a) A federal pacific groundfish limited entry permit with a trawl endorsement; (b) an ocean pink shrimp delivery license issued under RCW 77.65.390; (c) a Dungeness crab—coastal fishery license issued under RCW 77.70.280; (d) a food fish delivery license issued under RCW 77.65.200; or (e) a shrimp trawl license under RCW 77.65.220, to repay the federal government for moneys advanced by the federal government under a groundfish fleet reduction program established by the federal government.

(2) The commission shall adopt a fee schedule by rule for the collection of the fee required by subsection (1) of this section. The fee schedule adopted shall limit the total amount of moneys collected through the fee to the minimum amount necessary to repay the moneys advanced by the federal government, but be sufficient to repay the debt obligation of each fishery. The fee charged to the holders of a Dungeness crab—coastal fishery license may not exceed two percent of the total ex-vessel value of annual landings, and the fee charged to all other eligible license holders may not exceed five percent of the total ex-vessel value of annual landings. The commission may adjust the fee schedule as necessary to ensure that the funds collected are adequate to repay the debt obligation of each fishery.

(3) The commission shall deposit moneys collected under this section in the commercial fisheries buyback account created in RCW 77.70.450. [2003 c 174 § 2.]

Additional notes found at www.leg.wa.gov

77.70.470 Ban on assessing fee under RCW 77.70.460. (Contingent expiration date.) The commission may not assess the fee specified under RCW 77.70.460 until after the federal government creates a groundfish fleet reduction program. [2003 c 174 § 3.]

Additional notes found at www.leg.wa.gov

77.70.480 Pacific sardines—Purse seine fishery license or temporary annual fishery permit required. (1) A Washington sardine purse seine fishery license or temporary annual fishery permit is required to use purse seine gear to fish for or possess Pacific sardines in offshore waters. This requirement does not affect persons authorized to fish for or possess sardines in offshore waters under a valid Oregon or California license or permit.

(2) A Washington sardine purse seine fishery license or temporary annual fishery permit is required to deliver Pacific sardines into the state.

(3) Washington sardine purse seine fishery licenses and temporary annual fishery permits require vessel designation under RCW 77.65.100.

(4) Pacific sardines may not be taken or retained in state waters except for incidental harvest authorized by rule of the department. [2009 c 331 § 2.]

77.70.490 Pacific sardine purse seine fishery license—Fees—Temporary annual fishery permit—Fees—Adoption of rules regarding bycatch. (1) A Washington Pacific sardine purse seine fishery license:

(a) May only be issued to a person that held a coastal pilchard experimental fishery permit in 2008, except as otherwise provided in this section;

(b) Must be renewed annually to remain active; and

(c) Subject to the restrictions of subsections (6) and (7) of this section and RCW 77.65.040, is transferable.

(2) A Washington Pacific sardine purse seine fishery license may be issued to any person that held a coastal pilchard experimental fishery permit in 2005, 2006, or 2007 and is precluded from qualifying under subsection (1) of this section because the vessel designated on the permit sank prior to 2008.

(3) Beginning in 2010, after taking into consideration the status of the Pacific sardine population, the impact of removal of sardines and other forage fish to the marine ecosystem, including the effect on endangered marine species, and the market for Pacific sardines in the state, the director may issue:

(a) A Washington Pacific sardine purse seine fishery license to any person provided that the issuance would not raise the number of licenses beyond the number initially issued in 2009;

(b) A Washington Pacific sardine purse seine temporary annual fishery permit to any person if the combined number of active Washington Pacific sardine purse seine fishery licenses and annual temporary permits already issued during the year is less than twenty-five.

(4) The annual fee for a Washington Pacific sardine purse seine fishery license and the application fee are specified in RCW 77.65.200.

(5) The fee for a Washington Pacific sardine purse seine temporary annual fishery permit and the application fee are specified in RCW 77.65.200. A temporary annual fishery permit expires at the end of the calendar year in which the permit is issued.

(6) Only a person who owns or operates the vessel designated on the license or permit may hold a Washington Pacific sardine purse seine fishery license or temporary annual fishery permit.

(7) A person may not own or hold an ownership interest in more than two Washington Pacific sardine purse seine fishery licenses.

(8) The director shall adopt rules that require a person fishing under a Washington Pacific sardine purse seine fishery license or a temporary annual permit to minimize bycatch, and to the extent bycatch cannot be avoided, to min-

imize the mortality of such bycatch. [2017 3rd sp.s. c 8 § 52; 2011 c 339 § 36; 2009 c 331 § 3.]

Finding—Intent—Effective date—2017 3rd sp.s. c 8: See notes following RCW 77.08.010.

Effective date—2011 c 339: See note following RCW 43.84.092.

77.70.500 Crab pot removal permit—Shellfish pot removal permit—Rules—Penalty. (1)(a) As part of a coastal commercial Dungeness crab pot removal program, the department shall issue a crab pot removal permit that allows the participants in the Dungeness crab-coastal fishery created in RCW 77.70.280 to remove crab pots belonging to state commercial licensed crab fisheries from coastal marine waters after the close of the primary commercial Dungeness crab-coastal harvest season, regardless of whether the crab pot was originally set by the participant or not.

(b) Beginning fifteen days after the close of the primary commercial Dungeness crab-coastal harvest season, any individual with a current commercial Dungeness crab-coastal license and a valid crab pot removal permit issued by the department may remove a crab pot or crab pots used to harvest Dungeness crabs remaining in coastal marine waters after the close of the primary commercial Dungeness crab-coastal harvest season.

(c) In cooperation with individuals with a current commercial Dungeness crab-coastal license, the department may expand the coastal commercial Dungeness crab pot removal program to those areas closed to commercial Dungeness crab harvest prior to the end of the primary season and during that portion of the coastal Dungeness crab fishery that occurs from May 1st through September 15th.

(d) Nothing in this section prohibits the department from exempting certain crab pots from the coastal commercial Dungeness crab pot removal program or from restricting crab pot removal activities to specific geographic areas.

(2)(a) The department may expand the crab pot removal program to allow for the removal of shellfish pots belonging to state commercial or recreational licensed shellfish fisheries from Puget Sound waters during shellfish harvest closures, regardless of whether the shellfish pot was originally set by the permittee or not.

(b) If the department expands the program to Puget Sound waters, the department shall limit the program as necessary to streamline implementation, minimize the oversight burden on fish and wildlife enforcement officers, minimize interference with lawful fisheries and other user groups, minimize administrative overhead cost, and avoid the collection of shellfish pots that are not abandoned. The program may be limited as deemed appropriate by the department, including limitations on:

- (i) The number of participants;
- (ii) The eligible geographic areas in Puget Sound where shellfish pots may be recovered;
- (iii) The types of shellfish pots that may be recovered;
- (iv) The maximum or minimum depth where a shellfish pot must be located to be eligible for recovery; and
- (v) The ports through which the vessels collecting the abandoned shellfish pots may operate.

(3) The department may adopt rules to implement subsections (1) and (2) of this section.

(2021 Ed.)

(4)(a) The following are exempt from complying with the lost and found property provisions in chapter 63.21 RCW:

(i) An individual participating in permitted crab pot removal activities in coastal marine waters who has a valid crab pot removal permit, and who adheres to the provisions of the permit as they relate to crab pot removal; and

(ii) An individual participating in permitted shellfish pot removal activities in Puget Sound waters who has a valid shellfish pot removal permit and who adheres to the provisions of the permit as they relate to shellfish pot removal.

(b) The individual who removes a shellfish pot under a valid crab pot removal permit or a valid shellfish pot removal permit takes the property free and clear of all claims of the owner or previous holder and free and clear of all individuals claiming ownership under the previous owner.

(5) A violation of this section, or any rules or permit conditions provided under this section, is punishable as provided in RCW 77.15.750.

(6) Individuals who remove shellfish pots under a valid crab pot removal permit or a valid shellfish pot removal permit in accordance with this section are not subject to permitting under RCW 77.55.021. [2020 c 172 § 1; 2010 c 193 § 3; 2009 c 355 § 1.]

77.70.510 Washington-coastal spot shrimp pot fishery license. (1) A Washington-coastal spot shrimp pot fishery license:

(a) May only be issued to a natural person who held a coastal spot shrimp experimental emerging commercial fishery license and coastal spot shrimp fishery permit in 2010 or had the license transferred to him or her, under RCW 77.65.020 and 77.65.040, by a person who held a coastal spot shrimp experimental emerging commercial fishery license and coastal spot shrimp fishery permit in 2010;

(b) Must be renewed annually by December 31st of the calendar year to remain active; and

(c) Subject to the restrictions of subsection (7) of this section and to RCW 77.65.020 and 77.65.040, is transferable to a natural person beginning January 1, 2012.

(2) When a person fails to obtain a Washington-coastal spot shrimp pot fishery license during the previous year because of a license suspension, the person may qualify for a license by establishing that the person held such a license during the last year in which the license was not suspended.

(3) The annual fee for a Washington-coastal spot shrimp pot fishery license is as specified in RCW 77.65.220.

(4) Beginning in 2013, after taking into consideration the status of the coastal spot shrimp population, the market for spot shrimp, and the number of active fishers, both nontreaty and treaty, the director may issue a Washington-coastal spot shrimp pot fishery license to a natural person if the issuance would not raise the number of active spot shrimp pot fishery licenses to more than eight.

(5) Beginning 2012, a Washington-coastal spot shrimp pot fishery license holder is prohibited from designating, on the Washington-coastal spot shrimp pot fishery license:

(a) A vessel whose surveyed length overall is more than ten feet longer than the surveyed length overall of the vessel designated on the licensee's coastal spot shrimp experimental emerging commercial fishery license as of March 31, 2003; and

(b) A vessel whose surveyed length overall exceeds ninety feet.

(6) In the event the Washington-coastal spot shrimp pot fishery license is transferred by sale, lease, inheritance, or lottery, and pursuant to subsection (4) of this section, the vessel length restriction associated with that license must remain attached to the license.

(7) A natural person may not own or hold an ownership interest in more than one Washington-coastal spot shrimp pot fishery license at a time.

(8) Only a person who owns or is designated as an operator of the vessel designated on the license may hold a Washington-coastal spot shrimp pot fishery license.

(9) Nothing in this section:

(a) Requires the commission to open a commercial coastal spot shrimp fishery in any given year;

(b) Prohibits the commission from closing or limiting an opened commercial coastal spot shrimp fishery for any reason; or

(c) Confers any right of compensation to the holder of a Washington-coastal spot shrimp pot fishery license if the license is revoked, limited, or modified by the legislature.

(10) Issuance of a Washington-coastal spot shrimp pot fishery license does not create, and may not be construed to create, any right, title, or interest in the coastal spot shrimp resource.

(11) The legislature recognizes that Washington-coastal spot shrimp pot fishery licenses may be revoked by future legislatures if the fishery is found to have jeopardized the sustainability of the coastal spot shrimp resource or the marine ecosystem. [2011 c 147 § 2.]

77.75.160 Fish restoration and management projects—Federal act.

COLUMBIA RIVER COMPACT

77.75.010 Columbia River Compact—Provisions.

There exists between the states of Washington and Oregon a definite compact and agreement as follows:

All laws and regulations now existing or which may be necessary for regulating, protecting or preserving fish in the waters of the Columbia river, or its tributaries, over which the states of Washington and Oregon have concurrent jurisdiction, or which would be affected by said concurrent jurisdiction, shall be made, changed, altered and amended in whole or in part, only with the mutual consent and approbation of both states. [1983 1st ex.s. c 46 § 149; 1955 c 12 § 75.40.010. Prior: 1949 c 112 § 80; Rem. Supp. 1949 § 5780-701. Formerly RCW 75.40.010.]

77.75.020 Columbia River Compact—Commission to represent state.

The commission may give to the state of Oregon such consent and approbation of the state of Washington as is necessary under the compact set out in RCW 77.75.010. For the purposes of RCW 77.75.010, the states of Washington and Oregon have concurrent jurisdiction in the concurrent waters of the Columbia river. [2000 c 107 § 86; 1995 1st sp.s. c 2 § 19 (Referendum Bill No. 45, approved November 7, 1995); 1983 1st ex.s. c 46 § 150; 1955 c 12 § 75.40.020. Prior: 1949 c 112 § 81; Rem. Supp. 1949 § 5780-702. Formerly RCW 75.40.020.]

Additional notes found at www.leg.wa.gov

PACIFIC MARINE FISHERIES COMPACT

77.75.030 Pacific Marine Fisheries Compact—Provisions.

There exists between the states of Alaska, California, Idaho, Oregon and Washington a definite compact and agreement as follows:

THE PACIFIC MARINE FISHERIES COMPACT

The contracting states do hereby agree as follows:

ARTICLE I.

The purposes of this compact are and shall be to promote the better utilization of fisheries, marine, shell and anadromous, which are of mutual concern, and to develop a joint program of protection and prevention of physical waste of such fisheries in all of those areas of the Pacific Ocean and adjacent waters over which the compacting states jointly or separately now have or may hereafter acquire jurisdiction.

Nothing herein contained shall be construed so as to authorize the compacting states or any of them to limit the production of fish or fish products for the purpose of establishing or fixing the prices thereof or creating and perpetuating a monopoly.

ARTICLE II.

This agreement shall become operative immediately as to those states executing it whenever the compacting states have executed it in the form that is in accordance with the laws of the executing states and the congress has given its consent.

Chapter 77.75 RCW

COMPACTS AND OTHER AGREEMENTS

Sections

COLUMBIA RIVER COMPACT

- 77.75.010 Columbia River Compact—Provisions.
77.75.020 Columbia River Compact—Commission to represent state.

PACIFIC MARINE FISHERIES COMPACT

- 77.75.030 Pacific Marine Fisheries Compact—Provisions.
77.75.040 Pacific Marine Fisheries Compact—Representatives of state on Pacific Marine Fisheries Commission.

COASTAL ECOSYSTEMS COMPACT

- 77.75.050 Coastal ecosystems compact authorized.
77.75.060 Coastal ecosystems cooperative agreements authorized.

WILDLIFE VIOLATOR COMPACT

- 77.75.070 Wildlife violator compact—Established.
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SNAKE RIVER BOUNDARY

- 77.75.100 Snake river boundary—Cooperation with Idaho for adoption and enforcement of rules regarding wildlife.
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77.75.120 Snake river boundary—Honoring licenses to take wildlife of either state.
77.75.130 Snake river boundary—Purpose—Restrictions.

MISCELLANEOUS

- 77.75.140 Treaty between United States and Canada concerning Pacific salmon.
77.75.150 Wildlife restoration—Federal act.

ARTICLE III.

Each state joining herein shall appoint, as determined by state statutes, one or more representatives to a commission hereby constituted and designated as The Pacific Marine Fisheries Commission, of whom one shall be the administrative or other officer of the agency of such state charged with the conservation of the fisheries resources to which this compact pertains. This commission shall be a body with the powers and duties set forth herein.

The term of each commissioner of The Pacific Marine Fisheries Commission shall be four years. A commissioner shall hold office until his successor shall be appointed and qualified but such successor's term shall expire four years from legal date of expiration of the term of his predecessor. Vacancies occurring in the office of such commissioner from any reason or cause shall be filled for the unexpired term, or a commissioner may be removed from office, as provided by the statutes of the state concerned. Each commissioner may delegate in writing from time to time to a deputy the power to be present and participate, including voting as his representative or substitute, at any meeting of or hearing by or other proceeding of the commission.

Voting powers under this compact shall be limited to one vote for each state regardless of the number of representatives.

ARTICLE IV.

The duty of the said commission shall be to make inquiry and ascertain from time to time such methods, practices, circumstances and conditions as may be disclosed for bringing about the conservation and the prevention of the depletion and physical waste of the fisheries, marine, shell, and anadromous in all of those areas of the Pacific Ocean over which the states signatory to this compact jointly or separately now have or may hereafter acquire jurisdiction. The commission shall have power to recommend the coordination of the exercise of the police powers of the several states within their respective jurisdictions and said conservation zones to promote the preservation of those fisheries and their protection against overfishing, waste, depletion or any abuse whatsoever and to assure a continuing yield from the fisheries resources of the signatory parties hereto.

To that end the commission shall draft and, after consultation with the advisory committee hereinafter authorized, recommend to the governors and legislative branches of the various signatory states hereto legislation dealing with the conservation of the marine, shell and anadromous fisheries in all of those areas of the Pacific Ocean and adjacent waters over which the signatory states jointly or separately now have or may hereafter acquire jurisdiction. The commission shall, more than one month prior to any regular meeting of the legislative branch in any state signatory hereto, present to the governor of such state its recommendations relating to enactments by the legislative branch of that state in furthering the intents and purposes of this compact.

The commission shall consult with and advise the pertinent administrative agencies in the signatory states with regard to problems connected with the fisheries and recommend the adoption of such regulations as it deems advisable and which lie within the jurisdiction of such agencies.

The commission shall have power to recommend to the states signatory hereto the stocking of the waters of such states with marine, shell, or anadromous fish and fish eggs or joint stocking by some or all of such states and when two or more of the said states shall jointly stock waters the commission shall act as the coordinating agency for such stocking.

ARTICLE V.

The commission shall elect from its number a chairman and a vice chairman and shall appoint and at its pleasure, remove or discharge such officers and employees as may be required to carry the provisions of this compact into effect and shall fix and determine their duties, qualifications and compensation. Said commission shall adopt rules and regulations for the conduct of its business. It may establish and maintain one or more offices for the transaction of its business and may meet at any time or place within the territorial limits of the signatory states but must meet at least once a year.

ARTICLE VI.

No action shall be taken by the commission except by the affirmative vote of a majority of the whole number of compacting states represented at any meeting. No recommendation shall be made by the commission in regard to any species of fish except by the vote of a majority of the compacting states which have an interest in such species.

ARTICLE VII.

The fisheries research agencies of the signatory states shall act in collaboration as the official research agency of The Pacific Marine Fisheries Commission.

An advisory committee to be representative of the commercial fishermen, commercial fishing industry and such other interests of each state as the commission deems advisable shall be established by the commission as soon as practicable for the purpose of advising the commission upon such recommendations as it may desire to make.

ARTICLE VIII.

Nothing in this compact shall be construed to limit the powers of any state or to repeal or prevent the enactment of any legislation or the enforcement of any requirement by any state imposing additional conditions and restrictions to conserve its fisheries.

ARTICLE IX.

Continued absence of representation or of any representative on the commission from any state party hereto, shall be brought to the attention of the governor thereof.

ARTICLE X.

The states agree to make available annual funds for the support of the commission on the following basis:

Eighty percent of the annual budget shall be shared equally by those member states having as a boundary the Pacific Ocean; not less than five percent of the annual budget shall be contributed by any other member state; the balance of the annual budget shall be shared by those member states, having as a boundary the Pacific Ocean, in proportion to the

primary market value of the products of their commercial fisheries on the basis of the latest five-year catch records.

The annual contribution of each member state shall be figured to the nearest one hundred dollars.

This amended article shall become effective upon its enactment by the states of Alaska, California, Idaho, Oregon, and Washington and upon ratification by congress by virtue of the authority vested in it under Article I, section 10 of the Constitution of the United States.

ARTICLE XI.

This compact shall continue in force and remain binding upon each state until renounced by it. Renunciation of this compact must be preceded by sending six months' notice in writing of intention to withdraw from the compact to the other parties hereto.

ARTICLE XII.

The states of Alaska or Hawaii, or any state having rivers or streams tributary to the Pacific Ocean may become a contracting state by enactment of The Pacific Marine Fisheries Compact. Upon admission of any new state to the compact, the purposes of the compact and the duties of the commission shall extend to the development of joint programs for the conservation, protection and prevention of physical waste of fisheries in which the contracting states are mutually concerned and to all waters of the newly admitted state necessary to develop such programs.

This article shall become effective upon its enactment by the states of Alaska, California, Idaho, Oregon and Washington and upon ratification by congress by virtue of the authority vested in it under Article I, section 10, of the Constitution of the United States. [1983 1st ex.s. c 46 § 151; 1969 ex.s. c 101 § 2; 1959 ex.s. c 7 § 1; 1955 c 12 § 75.40.030. Prior: 1949 c 112 § 82(1); Rem. Supp. 1949 § 5780-703(1). Formerly RCW 75.40.030.]

Reviser's note: The 24th annual report (1971 p 40) of the Pacific Marine Fisheries Compact commission indicates congressional approval effective July 10, 1970, by P.L. 91-315, 91st congress; 84 Stat. 415.

Additional notes found at www.leg.wa.gov

77.75.040 Pacific Marine Fisheries Compact—Representatives of state on Pacific Marine Fisheries Commission. A member selected by or a designee of the fish and wildlife commission, ex officio, and two appointees of the governor representing the fishing industry shall act as the representatives of this state on the Pacific Marine Fisheries Commission. The appointees of the governor are subject to confirmation by the state senate. [1995 1st sp.s. c 2 § 20 (Referendum Bill No. 45, approved November 7, 1995); 1983 1st ex.s. c 46 § 152; 1963 c 171 § 2; 1955 c 12 § 75.40.040. Prior: 1949 c 112 § 82(2); Rem. Supp. 1949 § 5780-703(2). Formerly RCW 75.40.040.]

Additional notes found at www.leg.wa.gov

COASTAL ECOSYSTEMS COMPACT

77.75.050 Coastal ecosystems compact authorized. The state of Washington is authorized to enter into an interstate compact or compacts with all or any of the states of California, Idaho, and Oregon to protect and restore coastal eco-

systems of these states to levels that will prevent the need for listing any native salmonid fish species under the federal endangered species act of 1973, as amended, or under any comparable state legislation. [1994 c 148 § 1. Formerly RCW 75.40.100.]

Additional notes found at www.leg.wa.gov

77.75.060 Coastal ecosystems cooperative agreements authorized. Until such time as the agencies in California, Idaho, Oregon, and Washington present a final proposed interstate compact for enactment by their respective legislative bodies, the governor may establish cooperative agreements with the states of California, Idaho, and Oregon that allow the states to coordinate their individual efforts in developing state programs that further the regionwide goals set forth under RCW 77.75.050. [2000 c 107 § 87; 1994 c 148 § 2. Formerly RCW 75.40.110.]

Additional notes found at www.leg.wa.gov

WILDLIFE VIOLATOR COMPACT

77.75.070 Wildlife violator compact—Established. The wildlife violator compact is hereby established in the form substantially as follows, and the Washington state department of fish and wildlife is authorized to enter into such compact on behalf of the state with all other jurisdictions legally joining therein:

ARTICLE I

FINDINGS, DECLARATION OF POLICY, AND PURPOSE

- (a) The party states find that:
- (1) Wildlife resources are managed in trust by the respective states for the benefit of all residents and visitors.
 - (2) The protection of their respective wildlife resources can be materially affected by the degree of compliance with state statute, law, regulation, ordinance, or administrative rule relating to the management of those resources.
 - (3) The preservation, protection, management, and restoration of wildlife contributes immeasurably to the aesthetic, recreational, and economic aspects of these natural resources.
 - (4) Wildlife resources are valuable without regard to political boundaries, therefore, all persons should be required to comply with wildlife preservation, protection, management, and restoration laws, ordinances, and administrative rules and regulations of all party states as a condition precedent to the continuance or issuance of any license to hunt, fish, trap, or possess wildlife.
 - (5) Violation of wildlife laws interferes with the management of wildlife resources and may endanger the safety of persons and property.
 - (6) The mobility of many wildlife law violators necessitates the maintenance of channels of communications among the various states.

(7) In most instances, a person who is cited for a wildlife violation in a state other than the person's home state:

- (i) Must post collateral or bond to secure appearance for a trial at a later date; or
- (ii) If unable to post collateral or bond, is taken into custody until the collateral or bond is posted; or

(iii) Is taken directly to court for an immediate appearance.

(8) The purpose of the enforcement practices described in paragraph (7) of this subdivision is to ensure compliance with the terms of a wildlife citation by the person who, if permitted to continue on the person's way after receiving the citation, could return to the person's home state and disregard the person's duty under the terms of the citation.

(9) In most instances, a person receiving a wildlife citation in the person's home state is permitted to accept the citation from the officer at the scene of the violation and to immediately continue on the person's way after agreeing or being instructed to comply with the terms of the citation.

(10) The practice described in paragraph (7) of this subdivision causes unnecessary inconvenience and, at times, a hardship for the person who is unable at the time to post collateral, furnish a bond, stand trial, or pay the fine, and thus is compelled to remain in custody until some alternative arrangement can be made.

(11) The enforcement practices described in paragraph (7) of this subdivision consume an undue amount of law enforcement time.

(b) It is the policy of the party states to:

(1) Promote compliance with the statutes, laws, ordinances, regulations, and administrative rules relating to management of wildlife resources in their respective states.

(2) Recognize the suspension of wildlife license privileges of any person whose license privileges have been suspended by a party state and treat this suspension as if it had occurred in their state.

(3) Allow violators to accept a wildlife citation, except as provided in subdivision (b) of Article III, and proceed on the violator's way without delay whether or not the person is a resident in the state in which the citation was issued, provided that the violator's home state is party to this compact.

(4) Report to the appropriate party state, as provided in the compact manual, any conviction recorded against any person whose home state was not the issuing state.

(5) Allow the home state to recognize and treat convictions recorded for their residents which occurred in another party state as if they had occurred in the home state.

(6) Extend cooperation to its fullest extent among the party states for obtaining compliance with the terms of a wildlife citation issued in one party state to a resident of another party state.

(7) Maximize effective use of law enforcement personnel and information.

(8) Assist court systems in the efficient disposition of wildlife violations.

(c) The purpose of this compact is to:

(1) Provide a means through which the party states may participate in a reciprocal program to effectuate policies enumerated in subdivision (b) of this article in a uniform and orderly manner.

(2) Provide for the fair and impartial treatment of wildlife violators operating within party states in recognition of the person's right of due process and the sovereign status of a party state.

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ARTICLE II
DEFINITIONS

Unless the context requires otherwise, the definitions in this article apply through this compact and are intended only for the implementation of this compact:

(a) "Citation" means any summons, complaint, ticket, penalty assessment, or other official document issued by a wildlife officer or other peace officer for a wildlife violation containing an order which requires the person to respond.

(b) "Collateral" means any cash or other security deposited to secure an appearance for trial, in connection with the issuance by a wildlife officer or other peace officer of a citation for a wildlife violation.

(c) "Compliance" with respect to a citation means the act of answering the citation through appearance at a court, a tribunal, or payment of fines, costs, and surcharges, if any, or both such appearance and payment.

(d) "Conviction" means a conviction, including any court conviction, of any offense related to the preservation, protection, management, or restoration of wildlife which is prohibited by state statute, law, regulation, ordinance, or administrative rule, or a forfeiture of bail, bond, or other security deposited to secure appearance by a person charged with having committed any such offense, or payment of a penalty assessment, or a plea of nolo contendere, or the imposition of a deferred or suspended sentence by the court.

(e) "Court" means a court of law, including Magistrate's Court and the Justice of the Peace Court.

(f) "Home state" means the state of primary residence of a person.

(g) "Issuing state" means the party state which issues a wildlife citation to the violator.

(h) "License" means any license, permit, or other public document which conveys to the person to whom it was issued the privilege of pursuing, possessing, or taking any wildlife regulated by statute, law, regulation, ordinance, or administrative rule of a party state.

(i) "Licensing authority" means the department or division within each party state which is authorized by law to issue or approve licenses or permits to hunt, fish, trap, or possess wildlife.

(j) "Party state" means any state which enacts legislation to become a member of this wildlife compact.

(k) "Personal recognizance" means an agreement by a person made at the time of issuance of the wildlife citation that the person will comply with the terms of that citation.

(l) "State" means any state, territory, or possession of the United States, the District of Columbia, Commonwealth of Puerto Rico, Provinces of Canada, or other countries.

(m) "Suspension" means any revocation, denial, or withdrawal of any or all license privileges, including the privilege to apply for, purchase, or exercise the benefits conferred by any license.

(n) "Terms of the citation" means those conditions and options expressly stated upon the citation.

(o) "Wildlife" means all species of animals, including but not necessarily limited to mammals, birds, fish, reptiles, amphibians, mollusks, and crustaceans, which are defined as "wildlife" and are protected or otherwise regulated by statute, law, regulation, ordinance, or administrative rule in a party

state. "Wildlife" also means food fish and shellfish as defined by statute, law, regulation, ordinance, or administrative rule in a party state. Species included in the definition of "wildlife" vary from state to state and determination of whether a species is "wildlife" for the purposes of this compact shall be based on local law.

(p) "Wildlife law" means any statute, law, regulation, ordinance, or administrative rule developed and enacted to manage wildlife resources and the use thereof.

(q) "Wildlife officer" means any individual authorized by a party state to issue a citation for a wildlife violation.

(r) "Wildlife violation" means any cited violation of a statute, law, regulation, ordinance, or administrative rule developed and enacted to manage wildlife resources and the use thereof.

ARTICLE III PROCEDURES FOR ISSUING STATE

(a) When issuing a citation for a wildlife violation, a wildlife officer shall issue a citation to any person whose primary residence is in a party state in the same manner as if the person were a resident of the home state and shall not require the person to post collateral to secure appearance, subject to the exceptions contained in subdivision (b) of this article, if the officer receives the person's personal recognizance that the person will comply with the terms of the citation.

(b) Personal recognizance is acceptable:

(1) If not prohibited by local law or the compact manual; and

(2) If the violator provides adequate proof of the violator's identification to the wildlife officer.

(c) Upon conviction or failure of a person to comply with the terms of a wildlife citation, the appropriate official shall report the conviction or failure to comply to the licensing authority of the party state in which the wildlife citation was issued. The report shall be made in accordance with procedures specified by the issuing state and shall contain the information specified in the compact manual as minimum requirements for effective processing by the home state.

(d) Upon receipt of the report of conviction or noncompliance required by subdivision (c) of this article, the licensing authority of the issuing state shall transmit to the licensing authority in the home state of the violator the information in a form and content as contained in the compact manual.

ARTICLE IV PROCEDURES FOR HOME STATE

(a) Upon receipt of a report of failure to comply with the terms of a citation from the licensing authority of the issuing state, the licensing authority of the home state shall notify the violator, shall initiate a suspension action in accordance with the home state's suspension procedures and shall suspend the violator's license privileges until satisfactory evidence of compliance with the terms of the wildlife citation has been furnished by the issuing state to the home state licensing authority. Due process safeguards will be accorded.

(b) Upon receipt of a report of conviction from the licensing authority of the issuing state, the licensing authority of the home state shall enter such conviction in its records and shall treat such conviction as if it occurred in the home state for the purposes of the suspension of license privileges.

(c) The licensing authority of the home state shall maintain a record of actions taken and make reports to issuing states as provided in the compact manual.

ARTICLE V RECIPROCAL RECOGNITION OF SUSPENSION

All party states shall recognize the suspension of license privileges of any person by any state as if the violation on which the suspension is based had in fact occurred in their state and could have been the basis for suspension of license privileges in their state.

ARTICLE VI APPLICABILITY OF OTHER LAWS

Except as expressly required by provisions of this compact, nothing herein shall be construed to affect the right of any party state to apply any of its laws relating to license privileges to any person or circumstance, or to invalidate or prevent any agreement or other cooperative arrangements between a party state and a nonparty state concerning wildlife law enforcement.

ARTICLE VII COMPACT ADMINISTRATOR PROCEDURES

(a) For the purpose of administering the provisions of this compact and to serve as a governing body for the resolution of all matters relating to the operation of this compact, a board of compact administrators is established. The board shall be composed of one representative from each of the party states to be known as the compact administrator. The compact administrator shall be appointed by the head of the licensing authority of each party state and will serve and be subject to removal in accordance with the laws of the state the administrator represents. A compact administrator may provide for the discharge of the administrator's duties and the performance of the administrator's functions as a board member by an alternate. An alternate may not be entitled to serve unless written notification of the alternate's identity has been given to the board.

(b) Each member of the board of compact administrators shall be entitled to one vote. No action of the board shall be binding unless taken at a meeting at which a majority of the total number of votes on the board are cast in favor thereof. Action by the board shall be only at a meeting at which a majority of the party states are represented.

(c) The board shall elect annually, from its membership, a chairperson and vice chairperson.

(d) The board shall adopt bylaws, not inconsistent with the provisions of this compact or the laws of a party state, for the conduct of its business and shall have the power to amend and rescind its bylaws.

(e) The board may accept for any of its purposes and functions under this compact all donations and grants of money, equipment, supplies, materials, and services, conditional or otherwise, from any state, the United States, or any governmental agency, and may receive, utilize, and dispose of the same.

(f) The board may contract with or accept services or personnel from any governmental or intergovernmental

agency, individual, firm, corporation, or any private non-profit organization or institution.

(g) The board shall formulate all necessary procedures and develop uniform forms and documents for administering the provisions of this compact. All procedures and forms adopted pursuant to board action shall be contained in the compact manual.

ARTICLE VIII

ENTRY INTO COMPACT AND WITHDRAWAL

(a) This compact shall become effective when it has been adopted by at least two states.

(b)(1) Entry into the compact shall be made by resolution of ratification executed by the authorized officials of the applying state and submitted to the chairperson of the board.

(2) The resolution shall be in a form and content as provided in the compact manual and shall include statements that in substance are as follows:

(i) A citation of the authority by which the state is empowered to become a party to this compact;

(ii) Agreement to comply with the terms and provisions of the compact; and

(iii) That compact entry is with all states then party to the compact and with any state that legally becomes a party to the compact.

(3) The effective date of entry shall be specified by the applying state, but shall not be less than sixty days after notice has been given by the chairperson of the board of compact administrators or by the secretariat of the board to each party state that the resolution from the applying state has been received.

(c) A party state may withdraw from this compact by official written notice to the other party states, but a withdrawal shall not take effect until ninety days after notice of withdrawal is given. The notice shall be directed to the compact administrator of each member state. No withdrawal shall affect the validity of this compact as to the remaining party states.

ARTICLE IX

AMENDMENTS TO THE COMPACT

(a) This compact may be amended from time to time. Amendments shall be presented in resolution form to the chairperson of the board of compact administrators and may be initiated by one or more party states.

(b) Adoption of an amendment shall require endorsement by all party states and shall become effective thirty days after the date of the last endorsement.

(c) Failure of a party state to respond to the compact chairperson within one hundred twenty days after receipt of the proposed amendment shall constitute endorsement.

ARTICLE X

CONSTRUCTION AND SEVERABILITY

This compact shall be liberally construed so as to effectuate the purposes stated herein. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, individual,

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or circumstance is held invalid, the compact shall not be affected thereby. If this compact shall be held contrary to the constitution of any party state thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

ARTICLE XI

TITLE

This compact shall be known as the wildlife violator compact. [1994 c 264 § 55; 1993 c 82 § 1. Formerly RCW 77.17.010.]

Additional notes found at www.leg.wa.gov

77.75.080 Licensing authority defined. For purposes of Article VII of RCW 77.75.070, the term "licensing authority," with reference to this state, means the department. The director is authorized to appoint a compact administrator. [2000 c 107 § 261; 1994 c 264 § 56; 1993 c 82 § 2. Formerly RCW 77.17.020.]

Additional notes found at www.leg.wa.gov

77.75.090 Administration facilitation. The director shall furnish to the appropriate authorities of the participating states any information or documents reasonably necessary to facilitate the administration of the compact. [1994 c 264 § 57; 1993 c 82 § 3. Formerly RCW 77.17.030.]

Additional notes found at www.leg.wa.gov

SNAKE RIVER BOUNDARY

77.75.100 Snake river boundary—Cooperation with Idaho for adoption and enforcement of rules regarding wildlife. The commission may cooperate with the Idaho fish and game commission in the adoption and enforcement of rules regarding wildlife on that portion of the Snake river forming the boundary between Washington and Idaho. [1980 c 78 § 62; 1967 c 62 § 1. Formerly RCW 77.12.450.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.75.110 Snake river boundary—Concurrent jurisdiction of Idaho and Washington courts and law enforcement officers. To enforce RCW 77.75.120 and 77.75.130, courts in the counties contiguous to the boundary waters, fish and wildlife officers, and ex officio fish and wildlife officers have jurisdiction over the boundary waters to the furthestmost shoreline. This jurisdiction is concurrent with the courts and law enforcement officers of Idaho. [2000 c 107 § 222; 1980 c 78 § 63; 1967 c 62 § 3. Formerly RCW 77.12.470.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.75.120 Snake river boundary—Honoring licenses to take wildlife of either state. The taking of wildlife from the boundary waters or islands of the Snake river shall be in accordance with the wildlife laws of the respective states. Fish and wildlife officers and ex officio fish and wildlife officers shall honor the license of either state and the right of the holder to take wildlife from the boundary waters and islands in accordance with the laws of the state issuing the license.

[2000 c 107 § 223; 1980 c 78 § 64; 1967 c 62 § 4. Formerly RCW 77.12.480.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.75.130 Snake river boundary—Purpose—Restrictions. The purpose of RCW 77.75.100 through 77.75.130 is to avoid the conflict, confusion, and difficulty of locating the state boundary in or on the boundary waters and islands of the Snake river. These sections do not allow the holder of a Washington license to fish or hunt on the shoreline, sloughs, or tributaries on the Idaho side, nor allow the holder of an Idaho license to fish or hunt on the shoreline, sloughs, or tributaries on the Washington side. [2000 c 107 § 224; 1980 c 78 § 65; 1967 c 62 § 5. Formerly RCW 77.12.490.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

MISCELLANEOUS

77.75.140 Treaty between United States and Canada concerning Pacific salmon. The commission may adopt and enforce the provisions of the treaty between the government of the United States and the government of Canada concerning Pacific salmon, treaty document number 99-2, entered into force March 18, 1985, at Quebec City, Canada, and the regulations of the commission adopted under authority of the treaty. [1995 1st sp.s. c 2 § 21 (Referendum Bill No. 45, approved November 7, 1995); 1989 c 130 § 2; 1983 1st ex.s. c 46 § 153; 1955 c 12 § 75.40.060. Prior: 1949 c 112 § 83; Rem. Supp. 1949 § 5780-704. Formerly RCW 75.40.060.]

Additional notes found at www.leg.wa.gov

77.75.150 Wildlife restoration—Federal act. The state assents to the act of congress entitled: "An Act to provide that the United States shall aid the states in wildlife restoration projects, and for other purposes," (50 Stat. 917; 16 U.S.C. Sec. 669). The department shall establish and conduct cooperative wildlife restoration projects, as defined in the act, and shall comply with the act and related rules adopted by the secretary of agriculture. [1980 c 78 § 60; 1955 c 36 § 77.12.430. Prior: 1939 c 140 § 1; RRS § 5855-12. Formerly RCW 77.12.430.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.75.160 Fish restoration and management projects—Federal act. The state assents to the act of congress entitled: "An Act to provide that the United States shall aid the states in fish restoration and management projects, and for other purposes," (64 Stat. 430; 16 U.S.C. Sec. 777). The department shall establish, conduct, and maintain fish restoration and management projects, as defined in the act, and shall comply with the act and related rules adopted by the secretary of the interior. [1993 sp.s. c 2 § 69; 1987 c 506 § 47; 1982 c 26 § 2; 1980 c 78 § 61; 1955 c 36 § 77.12.440. Prior: 1951 c 124 § 1. Formerly RCW 77.12.440.]

Legislative findings and intent—1987 c 506: See note following RCW 77.04.020.

Intent—1982 c 26: "The legislature recognizes that funds from the federal Dingell-Johnson Act (64 Stat. 430; 16 U.S.C. Sec. 777) are derived from

a tax imposed on the sale of recreational fishing tackle, and that these funds are granted to the state for fish restoration and management projects. The intent of this 1982 amendment to RCW 77.12.440 is to provide for the allocation of the Dingell-Johnson aid for fish restoration and management projects of the department of game and the department of fisheries. Such funds shall be subject to appropriation by the legislature." [1982 c 26 § 1.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

Additional notes found at www.leg.wa.gov

Chapter 77.80 RCW

PROGRAM TO PURCHASE FISHING VESSELS AND LICENSES

Sections

77.80.020	Program authorized—Conditions.
77.80.030	Determination of purchase price—Maximum price.
77.80.040	Disposition of vessels and gear—Prohibition against using purchased vessels for fishing purposes.
77.80.050	Rules—Administration of chapter.
77.80.060	Vessel, gear, license, and permit reduction fund.

77.80.020 Program authorized—Conditions. (1)(a) The department may purchase commercial fishing vessels and appurtenant gear, and the current state commercial fishing licenses, delivery permits, and charter boat licenses if the license or permit holder was substantially restricted in fishing as a result of compliance with *United States of America et al. v. State of Washington et al.*, Civil No. 9213, United States District Court for Western District of Washington, February 12, 1974, and *Sohappy v. Smith*, 302 F. Supp. 899 (D. Oregon, 1969), as amended, affirmed, and remanded 529 F. 2d 570 (9th Cir., 1976).

(b) The department may also make such purchases if the license or permit holder was substantially restricted in fishing as a result of compliance with *United States of America et al. v. State of Washington et al.*, 873 F. Supp. 1422 (W.D. Wash. 1994) as affirmed in part, reversed in part, and remanded 157 F.3d 630 (9th Cir., 1998), if the federal government provides funding to the state for the purpose of initiating these purchases.

(2) The department shall not purchase a vessel under this section without also purchasing all current Washington commercial fishing licenses and delivery permits and charter boat licenses issued to the vessel or its owner. The department may purchase current licenses and delivery permits without purchasing the vessel. [2008 c 252 § 2; 1984 c 67 § 1; 1983 1st ex.s. c 46 § 156; 1979 ex.s. c 43 § 1; 1977 ex.s. c 230 § 4; 1975 1st ex.s. c 183 § 4. Formerly RCW 75.44.110, 75.28.510.]

Legislative finding and intent—1975 1st ex.s. c 183: "The legislature finds that the protection, welfare, and economic well-being of the commercial fishing industry is important to the people of this state. There presently exists an overabundance of commercial fishing gear in our state waters which causes great pressure on the fishing resources. This results in great economic waste to the state and prohibits conservation and harvesting programs from achieving their goals. This adverse situation has been compounded by the federal court decisions, *United States of America et al. v. State of Washington et al.*, Civil No. 9213, United States District Court for the Western District of Washington, February 12, 1974, and *Sohappy v. Smith*, 302 F. Supp. 899 (D. Oregon, 1969), as amended, affirmed, and remanded 529 F. 2d 570 (9th Cir., 1976). As a result, large numbers of commercial fishermen face personal economic hardship, and the state commercial fishing industry is confronted with economic difficulty. The public welfare requires that the state have the authority to purchase commercial fishing vessels, licenses, gear, and permits offered for sale, as appropriate, in a man-

ner which will provide relief to the individual vessel owner, and which will effect a reduction in the amount of commercial fishing gear in use in the state so as to insure increased economic opportunity for those persons in the industry and to insure that sound scientific conservation and harvesting programs can be carried out. It is the intention of the legislature to provide relief to commercial fishermen adversely affected by the current economic situation in the state fishery and to preserve this valuable state industry and these natural resources." [1977 ex.s. c 230 § 2; 1975 1st ex.s. c 183 § 2. Formerly RCW 75.28.500.]

77.80.030 Determination of purchase price—Maximum price. The purchase price of a vessel and appurtenant gear shall be based on a survey conducted by a qualified marine surveyor. A license or delivery permit shall be valued separately.

The director may specify a maximum price to be paid for a vessel, gear, license, or delivery permit purchased under RCW 77.80.020. A license or delivery permit purchased under RCW 77.80.020 shall be permanently retired by the department. [2000 c 107 § 89; 1983 1st ex.s. c 46 § 157; 1975 1st ex.s. c 183 § 5. Formerly RCW 75.44.120, 75.28.515.]

Legislative finding and intent—1975 1st ex.s. c 183: See note following RCW 77.80.020.

77.80.040 Disposition of vessels and gear—Prohibition against using purchased vessels for fishing purposes. The department may arrange for the insurance, storage, and resale or other disposition of vessels and gear purchased under RCW 77.80.020. Vessels shall not be resold by the department to the seller or the seller's immediate family. The vessels shall not be used by any owner or operator: (1) As a commercial fishing or charter vessel in state waters; or (2) to deliver fish to a place or port in the state. The department shall require that the purchasers and other users of vessels sold by the department execute suitable instruments to insure compliance with the requirements of this section. The director may commence suit or be sued on such an instrument in a state court of record or United States district court having jurisdiction. [2000 c 107 § 90; 1983 1st ex.s. c 46 § 158; 1979 ex.s. c 43 § 2; 1975 1st ex.s. c 183 § 6. Formerly RCW 75.44.130, 75.28.520.]

Legislative finding and intent—1975 1st ex.s. c 183: See note following RCW 77.80.020.

77.80.050 Rules—Administration of chapter. The director shall adopt rules for the administration of this chapter. To assist the department in the administration of this chapter, the director may contract with persons not employed by the state and may enlist the aid of other state agencies. [2008 c 252 § 3; 1995 c 269 § 3201; 1983 1st ex.s. c 46 § 159; 1979 ex.s. c 43 § 4; 1975-'76 2nd ex.s. c 34 § 172; 1975 1st ex.s. c 183 § 8. Formerly RCW 75.44.140, 75.28.530.]

Legislative finding and intent—1975 1st ex.s. c 183: See note following RCW 77.80.020.

Additional notes found at www.leg.wa.gov

77.80.060 Vessel, gear, license, and permit reduction fund. (1) The director is responsible for the administration and disbursement of all funds, goods, commodities, and services received by the state under this chapter.

(2) There is created within the state treasury a fund to be known as the "vessel, gear, license, and permit reduction fund". This fund shall be used for purchases under RCW

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77.80.020 and for the administration of this chapter. This fund shall be credited with federal or other funds received to carry out the purposes of this chapter and the proceeds from the sale or other disposition of property purchased under RCW 77.80.020. [2008 c 252 § 4; 2000 c 107 § 91; 1983 1st ex.s. c 46 § 160; 1977 ex.s. c 230 § 5; 1975 1st ex.s. c 183 § 9. Formerly RCW 75.44.150, 75.28.535.]

Legislative finding and intent—1975 1st ex.s. c 183: See note following RCW 77.80.020.

Chapter 77.85 RCW SALMON RECOVERY

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77.85.005 Findings—Intent. The legislature finds that repeated attempts to improve salmonid fish runs throughout the state of Washington have failed to avert listings of salmon and steelhead runs as threatened or endangered under the federal endangered species act (16 U.S.C. Sec. 1531 et seq.). These listings threaten the sport, commercial, and tribal fishing industries as well as the economic well-being and vitality of vast areas of the state. It is the intent of the legislature to begin activities required for the recovery of salmon stocks as soon as possible, although the legislature understands that successful recovery efforts may not be realized for many years because of the life cycle of salmon and the complex array of natural and human-caused problems they face.

The legislature finds that it is in the interest of the citizens of the state of Washington for the state to retain primary responsibility for managing the natural resources of the state, rather than abdicate those responsibilities to the federal government, and that the state may best accomplish this objective by integrating local and regional recovery activities into a statewide strategy that can make the most effective use of provisions of federal laws allowing for a state lead in salmon recovery, delivered through implementation activities consist-

tent with regional and watershed recovery plans. The legislature also finds that a statewide salmon recovery strategy must be developed and implemented through an active public involvement process in order to ensure public participation in, and support for, salmon recovery. The legislature also finds that there is a substantial link between the provisions of the federal endangered species act and the federal clean water act (33 U.S.C. Sec. 1251 et seq.). The legislature further finds that habitat restoration is a vital component of salmon recovery efforts. Therefore, it is the intent of the legislature to specifically address salmon habitat restoration in a coordinated manner and to develop a structure that allows for the coordinated delivery of federal, state, and local assistance to communities for habitat projects that will assist in the recovery and enhancement of salmon stocks. A strong watershed-based locally implemented plan is essential for local, regional, and statewide salmon recovery.

The legislature also finds that credible scientific review and oversight is essential for any salmon recovery effort to be successful.

The legislature further finds that it is important to monitor the overall health of the salmon resource to determine if recovery efforts are providing expected returns. It is important to monitor salmon habitat projects and salmon recovery activities to determine their effectiveness in order to secure federal acceptance of the state's approach to salmon recovery. Adaptive management cannot exist without monitoring. For these reasons, the legislature believes that a coordinated and integrated monitoring system should be developed and implemented.

The legislature therefore finds that a coordinated framework for responding to the salmon crisis is needed immediately. To that end, the governor's salmon recovery office should be created to provide overall coordination of the state's response; an independent science panel is needed to provide scientific review and oversight; a coordinated state funding process should be established through a salmon recovery funding board; the appropriate local or tribal government should provide local leadership in identifying and sequencing habitat projects to be funded by state agencies; habitat projects should be implemented without delay; and a strong locally based effort to restore salmon habitat should be established by providing a framework to allow citizen volunteers to work effectively. [2009 c 345 § 9; 2005 c 309 § 1; 1999 sp.s. c 13 § 1; 1998 c 246 § 1. Formerly RCW 75.46.005.]

Finding—Intent—2009 c 345: See notes following RCW 77.85.030.

Additional notes found at www.leg.wa.gov

77.85.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Adaptive management" means reliance on scientific methods to test the results of actions taken so that the management and related policy can be changed promptly and appropriately.

(2) "Critical pathways methodology" means a project scheduling and management process for examining interactions between habitat projects and salmonid species, prioritizing habitat projects, and assuring positive benefits from habitat projects.

(3) "Habitat project list" is the list of projects resulting from the critical pathways methodology under RCW 77.85.060(2). Each project on the list must have a written agreement from the landowner on whose land the project will be implemented. Projects include habitat restoration projects, habitat protection projects, habitat projects that improve water quality, habitat projects that protect water quality, habitat-related mitigation projects, and habitat project maintenance and monitoring activities.

(4) "Habitat work schedule" means those projects from the habitat project list that will be implemented during the current funding cycle. The schedule shall also include a list of the entities and individuals implementing projects, the start date, duration, estimated date of completion, estimated cost, and funding sources for the projects.

(5) "Limiting factors" means conditions that limit the ability of habitat to fully sustain populations of salmon. These factors are primarily fish passage barriers and degraded estuarine areas, riparian corridors, stream channels, and wetlands.

(6) "Project sponsor" is a county, city, special district, tribal government, state agency, a combination of such governments through interlocal or interagency agreements, a nonprofit organization, regional fisheries enhancement group, or one or more private citizens. A project sponsored by a state agency may be funded by the board only if it is included on the habitat project list submitted by the lead entity for that area and the state agency has a local partner that would otherwise qualify as a project sponsor.

(7) "Regional recovery organization" or "regional salmon recovery organization" means an entity formed under RCW 77.85.090 for the purpose of recovering salmon, which is recognized in statute or by the governor's salmon recovery office created in RCW 77.85.030.

(8) "Salmon" includes all species of the family Salmonidae which are capable of self-sustaining, natural production.

(9) "Salmon recovery plan" means a state or regional plan developed in response to a proposed or actual listing under the federal endangered species act that addresses limiting factors including, but not limited to harvest, hatchery, hydropower, habitat, and other factors of decline.

(10) "Salmon recovery region" means geographic areas of the state identified or formed under RCW 77.85.090 that encompass groups of watersheds in the state with common stocks of salmon identified for recovery activities, and that generally are consistent with the geographic areas within the state identified by the national oceanic and atmospheric administration or the United States fish and wildlife service for activities under the federal endangered species act.

(11) "Salmon recovery strategy" means the strategy adopted under RCW 77.85.150 and includes the compilation of all subbasin and regional salmon recovery plans developed in response to a proposed or actual listing under the federal endangered species act with state hatchery, harvest, and hydropower plans compiled in accordance with RCW 77.85.150.

(12) "Tribe" or "tribes" means federally recognized Indian tribes.

(13) "WRIA" means a water resource inventory area established in chapter 173-500 WAC as it existed on January 1, 1997.

(14) "Owner" means the person holding title to the land or the person under contract with the owner to lease or manage the legal owner's property. [2007 c 444 § 1; 2005 c 309 § 2; 2002 c 210 § 1; 2000 c 107 § 92; 1998 c 246 § 2. Formerly RCW 75.46.010.]

77.85.020 Consolidated report on salmon recovery and watershed health. (1) Beginning December 2010, the recreation and conservation office shall produce a biennial report on the statewide status of salmon recovery and watershed health, summarize projects and programs funded by the salmon recovery funding board, and summarize progress as measured by high-level indicators and state agency compliance with applicable protocols established by the forum for monitoring salmon recovery and watershed health. The report must be a consolidation of the current reporting activities, including the salmon recovery funding board and the forum on monitoring salmon recovery and watershed health, on the status of salmon recovery and watershed health in Washington state, in accordance with *RCW 77.85.250(8). The report shall also include a high-level status report on watershed planning efforts under chapter 90.82 RCW as summarized by the department of ecology and on salmon recovery and watershed planning as summarized by the Puget Sound partnership. The report's introduction must include a list of high-level questions related to the status of watershed health and salmon recovery to help decision makers and the public respond to salmon recovery and watershed health management needs.

(2) The department, the department of ecology, the department of natural resources, and the state conservation commission shall provide to the recreation and conservation office information requested by the office necessary to prepare the consolidated report on salmon recovery and watershed health. [2009 c 345 § 4; 2007 c 444 § 2; 2005 c 309 § 3; 1998 c 246 § 4. Formerly RCW 75.46.030.]

*Reviser's note: RCW 77.85.250 expired June 30, 2011.

Finding—Intent—2009 c 345: See notes following RCW 77.85.030.

77.85.030 Governor's salmon recovery office—Purpose and duties. (1) The governor's salmon recovery office shall coordinate state strategy to allow for salmon recovery to healthy sustainable population levels with productive commercial and recreational fisheries. A primary purpose of the office is to coordinate and assist in the development, implementation, and revision of regional salmon recovery plans as an integral part of a statewide strategy developed consistent with the guiding principles and procedures under RCW 77.85.150.

(2) The governor's salmon recovery office is also responsible for maintaining the statewide salmon recovery strategy to reflect applicable provisions of regional recovery plans, habitat protection and restoration plans, water quality plans, and other private, local, regional, state agency and federal plans, projects, and activities that contribute to salmon recovery.

(3) The governor's salmon recovery office shall also work with regional salmon recovery organizations on salmon recovery issues in order to ensure a coordinated and consistent statewide approach to salmon recovery and shall work

with federal agencies to accomplish implementation of federal commitments in the recovery plans.

(4) The governor's salmon recovery office may also:

(a) Assist state agencies, local governments, landowners, and other interested parties in obtaining federal assurances that plans, programs, or activities are consistent with fish recovery under the federal endangered species act;

(b) Act as liaison to local governments, the state congressional delegation, the United States congress, federally recognized tribes, and the federal executive branch agencies for issues related to the state's salmon recovery plans;

(c) Provide periodic reports pursuant to RCW 77.85.020;

(d) Provide, as appropriate, technical and administrative support to science panels on issues pertaining to salmon recovery;

(e) In cooperation with the regional recovery organizations, prepare a timeline and implementation plan that, together with a schedule and recommended budget, identifies specific actions in regional recovery plans for state agency actions and assistance necessary to implement local and regional recovery plans; and

(f) As necessary, provide recommendations to the legislature that would further the success of salmon recovery, including recommendations for state agency actions in the succeeding biennium and state financial and technical assistance for projects and activities to be undertaken in local and regional salmon recovery plans. The recommendations may include:

(i) The need to expand or improve nonregulatory programs and activities; and

(ii) The need for state funding assistance to recovery activities and projects.

(5) For administrative purposes, the governor's salmon recovery office is located within the recreation and conservation office. [2009 c 345 § 2; 2007 c 444 § 3; 2005 c 309 § 4; 2000 c 107 § 93; 1999 sp.s. c 13 § 8; 1998 c 246 § 5. Formerly RCW 75.46.040.]

Finding—2009 c 345: "The legislature finds that:

(1) Washington has made significant investments in watershed-based activities, including the establishment of water resource inventory area (WRIA) planning units and lead agencies, lead entities, and regional salmon recovery organizations across the state. Washington watersheds have developed subbasin plans under the Northwest power and conservation council and national oceanic and atmospheric administration-approved regional salmon recovery plans that include locally prioritized salmon recovery projects;

(2) The governor's salmon recovery office was established to support the development and implementation of regional salmon recovery plans, to assist local governments in obtaining federal assurances, and to issue a biennial state of the salmon report;

(3) The salmon recovery funding board provides grants for salmon recovery and the forum on monitoring salmon recovery and watershed health works to provide greater coordination on monitoring. Administrative support for the board and the forum are provided by the recreation and conservation office;

(4) Lead entity funding to support infrastructure and capacity needs is provided through the recreation and conservation office, which contracts with the department of fish and wildlife to implement the program. Funding for WRIA planning units and lead agencies to develop and implement watershed-based plans under RCW 90.82.040 is provided by the department of ecology; and

(5) Currently, state watershed and salmon recovery-based programs are split among several state agencies or offices. Efficient implementation of these efforts will be enhanced by promoting consolidation and integration of their activities and programs. In addition, consolidation of reporting benefits the public and decision makers regarding watershed health, which includes

salmon recovery. It is also the intent of the legislature, in cooperation with local and regional officials, and respecting the ability of local citizens and officials to organize in ways best suited to address local needs, to encourage the development of incentives that consolidate existing processes and promote more effective implementation of salmon recovery plans and watershed planning and implementation." [2009 c 345 § 1.]

Intent—2009 c 345: "Nothing in this act is intended to amend chapter 90.71 RCW." [2009 c 345 § 14.]

Additional notes found at www.leg.wa.gov

77.85.040 Independent science panel on salmon recovery—Purpose. (1) The governor may request the Washington academy of sciences, when organized pursuant to chapter 305, Laws of 2005, to impanel an independent science panel on salmon recovery to respond to requests for review pursuant to subsection (2) of this section. The panel shall reflect expertise in habitat requirements of salmon, protection and restoration of salmon populations, artificial propagation of salmon, hydrology, or geomorphology.

Based upon available funding, the governor's salmon recovery office may contract for services of the independent science panel for compensation under *chapter 39.29 RCW.

(2) The independent science panel shall be governed by guidelines and practices governing the activities of the Washington academy of sciences. The purpose of the independent science panel is to help ensure that sound science is used in salmon recovery efforts. The governor's salmon recovery office may, during the time it is constituted, request that the panel review, investigate, and provide its findings on scientific questions relating to the state's salmon recovery efforts. The science panel does not have the authority to review individual projects or habitat project lists developed under RCW 77.85.050 or 77.85.060 or to make policy decisions. The panel shall submit its findings and recommendations under this subsection to the legislature and the governor. [2007 c 444 § 4; 2005 c 309 § 5; 2000 c 107 § 94; 1999 sp.s. c 13 § 10; 1998 c 246 § 6. Formerly RCW 75.46.050.]

***Reviser's note:** Chapter 39.29 RCW was repealed by 2012 c 224 § 29, effective January 1, 2013. See chapter 39.26 RCW.

Additional notes found at www.leg.wa.gov

77.85.050 Habitat project lists. (1)(a) Counties, cities, and tribal governments must jointly designate, by resolution or by letters of support, the area for which a habitat project list is to be developed and the lead entity that is to be responsible for submitting the habitat project list. No project included on a habitat project list shall be considered mandatory in nature and no private landowner may be forced or coerced into participation in any respect. The lead entity may be a county, city, conservation district, special district, tribal government, regional recovery organization, or other entity.

(b) The lead entity shall establish a committee that consists of representative interests of counties, cities, conservation districts, tribes, environmental groups, business interests, landowners, citizens, volunteer groups, regional fish enhancement groups, and other habitat interests. The purpose of the committee is to provide a citizen-based evaluation of the projects proposed to promote salmon habitat.

(c) The committee shall compile a list of habitat projects, establish priorities for individual projects, define the sequence for project implementation, and submit these activities as the habitat project list. The committee shall also iden-

tify potential federal, state, local, and private funding sources.

(2) The area covered by the habitat project list must be based, at a minimum, on a WRIA, combination of WRIsAs, or any other area as agreed to by the counties, cities, and tribes in resolutions or in letters of support meeting the requirements of this subsection. Preference will be given to projects in an area that contain a salmon species that is listed or proposed for listing under the federal endangered species act.

(3) The lead entity shall submit the habitat project list to the salmon recovery funding board in accordance with procedures adopted by the board.

(4) The recreation and conservation office shall administer funding to support the functions of lead entities.

(5) A landowner whose land is used for a habitat project that is included on a habitat project list, and who has received notice from the project sponsor that the conditions of this section have been met, may not be held civilly liable for any property damages resulting from the habitat project regardless of whether or not the project was funded by the salmon recovery funding board. This subsection is subject to the following conditions:

(a) The project was designed by a licensed professional engineer (PE) or a licensed geologist (LG, LEG, or LHG) with experience in riverine restoration;

(b) The project is designed to withstand one hundred year floods;

(c) The project is not located within one-quarter mile of an established downstream boat launch;

(d) The project is designed to allow adequate response time for in-river boaters to safely evade in-stream structures; and

(e) If the project includes large wood placement, each individual root wad and each log larger than ten feet long and one foot in diameter must be visibly tagged with a unique numerical identifier that will withstand typical river conditions for at least three years. [2013 c 194 § 1. Prior: 2009 c 345 § 3; 2009 c 333 § 25; 2005 c 309 § 6; 1999 sp.s. c 13 § 11; 1998 c 246 § 7. Formerly RCW 75.46.060.]

Finding—Intent—2009 c 345: See notes following RCW 77.85.030.

Additional notes found at www.leg.wa.gov

77.85.060 Critical pathways methodology—Habitat work schedule. (1) Critical pathways methodology shall be used to develop a habitat project list and a habitat work schedule that ensures salmon habitat projects will be prioritized and implemented in a logical sequential manner that produces habitat capable of sustaining healthy populations of salmon.

(2) The critical pathways methodology shall:

(a) Include a limiting factors analysis for salmon in streams, rivers, tributaries, estuaries, and subbasins in the region. The technical advisory group shall have responsibility for the limiting factors analysis;

(b) Identify local habitat projects that sponsors are willing to undertake. The projects identified must have a written agreement from the landowner on which the project is to be implemented. Project sponsors shall have the lead responsibility for this task;

(c) Identify how projects will be monitored and evaluated. The project sponsor, in consultation with the technical

advisory group and the appropriate landowner, shall have responsibility for this task;

(d) Include a review of monitoring data, evaluate project performance, and make recommendations to the committee established under RCW 77.85.050 and to the technical review team. The technical advisory group has responsibility for this task; and

(e) Describe the adaptive management strategy that will be used. The committee established under RCW 77.85.050 shall have responsibility for this task. If a committee has not been formed, the technical advisory group shall have the responsibility for this task.

(3) The habitat work schedule shall include all projects developed pursuant to subsection (2) of this section, and shall identify and coordinate with any other salmon habitat project implemented in the region, including habitat preservation projects funded through the Washington wildlife and recreation program, the conservation reserve enhancement program, and other conservancy programs. The habitat work schedule shall also include the start date, duration, estimated date of completion, estimated cost, and, if appropriate, the affected salmonid species of each project. Each schedule shall be updated on an annual basis to depict new activities. [2000 c 107 § 95; 1999 sp.s. c 13 § 12; 1998 c 246 § 8. Formerly RCW 75.46.070.]

Additional notes found at www.leg.wa.gov

77.85.080 Sea grant program—Technical assistance authorized. The sea grant program at the University of Washington is authorized to provide technical assistance to volunteer groups and other project sponsors in designing and implementing habitat projects that address the limiting factors analysis required under RCW 77.85.060. The cost for such assistance may be covered on a fee-for-service basis. [2000 c 107 § 98; 1999 sp.s. c 13 § 14; 1998 c 246 § 11. Formerly RCW 75.46.100.]

Additional notes found at www.leg.wa.gov

77.85.090 Southwest Washington salmon recovery region—Created—Recognition as a regional recovery organization—Puget Sound salmon recovery organizations. (1) The southwest Washington salmon recovery region, whose boundaries are provided in chapter 60, Laws of 1998, is created.

(2) Lead entities within a salmon recovery region that agree to form a regional salmon recovery organization may be recognized by the governor's salmon recovery office created in RCW 77.85.030 as a regional recovery organization. The regional recovery organization may plan, coordinate, and monitor the implementation of a regional recovery plan in accordance with RCW 77.85.150. Regional recovery organizations existing as of July 24, 2005, that have developed draft recovery plans approved by the governor's salmon recovery office by July 1, 2005, may continue to plan, coordinate, and monitor the implementation of regional recovery plans.

(3) Beginning January 1, 2008, the leadership council, created under chapter 90.71 RCW, shall serve as the regional salmon recovery organization for Puget Sound salmon species, except for the program known as the Hood Canal summer chum evolutionarily significant unit area, which the Hood Canal coordinating council shall continue to administer

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under chapter 90.88 RCW. [2009 c 345 § 10. Prior: 2007 c 444 § 5; 2007 c 341 § 49; 2005 c 309 § 7; 2000 c 107 § 99; 1998 c 246 § 12. Formerly RCW 75.46.110.]

Finding—Intent—2009 c 345: See notes following RCW 77.85.030.

Additional notes found at www.leg.wa.gov

77.85.110 Salmon recovery funding board—Creation—Membership. (1) The salmon recovery funding board is created consisting of ten members.

(2) Five members of the board shall be voting members who are appointed by the governor, subject to confirmation by the senate. One of these voting members shall be a cabinet-level appointment as the governor's representative to the board. Board members who represent the general public shall not have a financial or regulatory interest in salmon recovery. The governor shall appoint one of the general public members of the board as the chair. The voting members of the board shall be appointed for terms of four years, except that two members initially shall be appointed for terms of two years and three members shall initially be appointed for terms of three years. In making the appointments, the governor shall seek a board membership that collectively provide the expertise necessary to provide strong fiscal oversight of salmon recovery expenditures, and that provide extensive knowledge of local government processes and functions and an understanding of issues relevant to salmon recovery in Washington state. The governor shall appoint at least three of the voting members of the board no later than ninety days after July 1, 1999. Vacant positions on the board shall be filled in the same manner as the original appointments. The governor may remove members of the board for good cause.

In addition to the five voting members of the board, the following five state officials shall serve as ex officio nonvoting members of the board: The director of the department of fish and wildlife, the executive director of the conservation commission, the secretary of transportation, the director of the department of ecology, and the commissioner of public lands. The state officials serving in an ex officio capacity may designate a representative of their respective agencies to serve on the board in their behalf. Such designations shall be made in writing and in such manner as is specified by the board.

(3) Staff support to the board shall be provided by the recreation and conservation office. For administrative purposes, the board shall be located with the recreation and conservation office.

(4) Members of the board who do not represent state agencies shall be compensated as provided by RCW 43.03.250. Members of the board shall be reimbursed for travel expenses as provided by RCW 43.03.050 and 43.03.060. [2007 c 241 § 20; 1999 sp.s. c 13 § 3. Formerly RCW 75.46.150.]

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

Additional notes found at www.leg.wa.gov

77.85.120 Board responsibilities—Grants and loans administration assistance. (1) The salmon recovery funding board is responsible for making grants and loans for salmon habitat projects and salmon recovery activities from

the amounts appropriated to the board for this purpose. To accomplish this purpose the board may:

- (a) Provide assistance to grant applicants regarding the procedures and criteria for grant and loan awards;
- (b) Make and execute all manner of contracts and agreements with public and private parties as the board deems necessary, consistent with the purposes of this chapter;
- (c) Accept any gifts, grants, or loans of funds, property, or financial or other aid in any form from any other source on any terms that are not in conflict with this chapter;
- (d) Adopt rules under chapter 34.05 RCW as necessary to carry out the purposes of this chapter; and
- (e) Do all acts and things necessary or convenient to carry out the powers expressly granted or implied under this chapter.

(2) The recreation and conservation office shall provide all necessary grants and loans administration assistance to the board, and shall distribute funds as provided by the board in RCW 77.85.130. [2007 c 241 § 21; 2000 c 107 § 101; 1999 sp.s. c 13 § 4. Formerly RCW 75.46.160.]

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

Additional notes found at www.leg.wa.gov

77.85.130 Allocation of funds—Procedures and criteria. (1) The salmon recovery funding board shall develop procedures and criteria for allocation of funds for salmon habitat projects and salmon recovery activities on a statewide basis to address the highest priorities for salmon habitat protection and restoration. To the extent practicable the board shall adopt an annual allocation of funding. The allocation should address both protection and restoration of habitat, and should recognize the varying needs in each area of the state on an equitable basis. The board has the discretion to partially fund, or to fund in phases, salmon habitat projects. The board may annually establish a maximum amount of funding available for any individual project, subject to available funding. No projects required solely as a mitigation or a condition of permitting are eligible for funding.

(2)(a) In evaluating, ranking, and awarding funds for projects and activities the board shall give preference to projects that:

- (i) Are based upon the limiting factors analysis identified under RCW 77.85.060;
- (ii) Provide a greater benefit to salmon recovery based upon the stock status information contained in the department of fish and wildlife salmonid stock inventory (SASSI), the salmon and steelhead habitat inventory and assessment project (SSHIAP), and any comparable science-based assessment when available;
- (iii) Will benefit listed species and other fish species;
- (iv) Will preserve high quality salmonid habitat;
- (v) Are included in a regional or watershed-based salmon recovery plan that accords the project, action, or area a high priority for funding;

(vi) Are, except as provided in RCW 77.85.240, sponsored by an entity that is a Puget Sound partner, as defined in RCW 90.71.010; and

(vii) Are projects referenced in the action agenda developed by the Puget Sound partnership under RCW 90.71.310.

(b) In evaluating, ranking, and awarding funds for projects and activities the board shall also give consideration to projects that:

- (i) Are the most cost-effective;
- (ii) Have the greatest matched or in-kind funding;
- (iii) Will be implemented by a sponsor with a successful record of project implementation;
- (iv) Involve members of the Washington conservation corps established in chapter 43.220 RCW or the veterans conservation corps established in RCW 43.60A.150; and
- (v) Are part of a regionwide list developed by lead entities.

(3) The board may reject, but not add, projects from a habitat project list submitted by a lead entity for funding.

(4) The board shall establish criteria for determining when block grants may be made to a lead entity. The board may provide block grants to the lead entity to implement habitat project lists developed under RCW 77.85.050, subject to available funding. The board shall determine an equitable minimum amount of project funds for each recovery region, and shall distribute the remainder of funds on a competitive basis. The board may also provide block grants to the lead entity or regional recovery organization to assist in carrying out functions described under this chapter. Block grants must be expended consistent with the priorities established for the board in subsection (2) of this section. Lead entities or regional recovery organizations receiving block grants under this subsection shall provide an annual report to the board summarizing how funds were expended for activities consistent with this chapter, including the types of projects funded, project outcomes, monitoring results, and administrative costs.

(5) The board may waive or modify portions of the allocation procedures and standards adopted under this section in the award of grants or loans to conform to legislative appropriations directing an alternative award procedure or when the funds to be awarded are from federal or other sources requiring other allocation procedures or standards as a condition of the board's receipt of the funds. The board shall develop an integrated process to manage the allocation of funding from federal and state sources to minimize delays in the award of funding while recognizing the differences in state and legislative appropriation timing.

(6) The board may award a grant or loan for a salmon recovery project on private or public land when the landowner has a legal obligation under local, state, or federal law to perform the project, when expedited action provides a clear benefit to salmon recovery, and there will be harm to salmon recovery if the project is delayed. For purposes of this subsection, a legal obligation does not include a project required solely as a mitigation or a condition of permitting.

(7) Property acquired or improved by a project sponsor may be conveyed to a federal agency if: (a) The agency agrees to comply with all terms of the grant or loan to which the project sponsor was obligated; or (b) the board approves: (i) Changes in the terms of the grant or loan, and the revision or removal of binding deed of right instruments; and (ii) a memorandum of understanding or similar document ensuring that the facility or property will retain, to the extent feasible, adequate habitat protections; and (c) the appropriate legislative authority of the county or city with jurisdiction over the

project area approves the transfer and provides notification to the board.

(8) Any project sponsor receiving funding from the salmon recovery funding board that is not subject to disclosure under chapter 42.56 RCW must, as a mandatory contractual prerequisite to receiving the funding, agree to disclose any information in regards to the expenditure of that funding as if the project sponsor was subject to the requirements of chapter 42.56 RCW.

(9) After January 1, 2010, any project designed to address the restoration of Puget Sound may be funded under this chapter only if the project is not in conflict with the action agenda developed by the Puget Sound partnership under RCW 90.71.310. [2011 c 20 § 16. Prior: 2007 c 341 § 36; 2007 c 257 § 1; prior: 2005 c 309 § 8; 2005 c 271 § 1; 2005 c 257 § 3; prior: 2000 c 107 § 102; 2000 c 15 § 1; 1999 sp.s. c 13 § 5. Formerly RCW 75.46.170.]

Findings—Intent—2011 c 20: See note following RCW 43.220.020.

Intent—Application—2011 c 20: See RCW 43.220.905.

Findings—Purpose—2005 c 257: See note following RCW 43.60A.150.

Additional notes found at www.leg.wa.gov

77.85.135 Habitat project funding—Statement of environmental benefits—Development of outcome-focused performance measures. In providing funding for habitat projects, the salmon recovery funding board shall require recipients to incorporate the environmental benefits of the project into their grant applications, and the board shall utilize the statement of environmental benefits in its prioritization and selection process. The board shall also develop appropriate outcome-focused performance measures to be used both for management and performance assessment of the grant program. To the extent possible, the board should coordinate its performance measure system with other natural resource-related agencies as defined in RCW 43.41.270. The board shall consult with affected interest groups in implementing this section. [2001 c 227 § 9.]

Findings—Intent—2001 c 227: See note following RCW 43.41.270.

77.85.140 Habitat project lists—Tracking of funds.

(1) Habitat project lists shall be submitted to the salmon recovery funding board for funding at least once a year on a schedule established by the board. The board shall provide the legislature with a list of the proposed projects and a list of the projects funded as part of the biennial report required in RCW 77.85.020. Project sponsors who complete salmon habitat projects approved for funding from habitat project lists and have met grant application deadlines will be paid by the salmon recovery funding board within thirty days of project completion.

(2) The recreation and conservation office shall track all funds allocated for salmon habitat projects and salmon recovery activities on behalf of the board, including both funds allocated by the board and funds allocated by other state or federal agencies for salmon recovery or water quality improvement. [2016 c 197 § 10. Prior: 2009 c 518 § 9; 2009 c 345 § 8; 2007 c 241 § 22; 2001 c 303 § 1; 2000 c 107 § 103; 1999 sp.s. c 13 § 6. Formerly RCW 75.46.180.]

Finding—Intent—2009 c 345: See notes following RCW 77.85.030.

(2021 Ed.)

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

Additional notes found at www.leg.wa.gov

77.85.150 Statewide salmon recovery strategy—Prospective application. (1) The governor shall, with the assistance of the governor's salmon recovery office, maintain and revise, as appropriate, a statewide salmon recovery strategy.

(2) The governor and the governor's salmon recovery office shall be guided by the following considerations in maintaining and revising the strategy:

(a) The strategy should identify statewide initiatives and responsibilities with regional recovery plans and local watershed initiatives as the principal means for implementing the strategy;

(b) The strategy should emphasize collaborative, incentive-based approaches;

(c) The strategy should address all factors limiting the recovery of Washington's listed salmon stocks, including habitat and water quality degradation, harvest and hatchery management, inadequate streamflows, and other barriers to fish passage. Where other limiting factors are beyond the state's jurisdictional authorities to respond to, such as some natural predators and high seas fishing, the strategy shall include the state's requests for federal action to effectively address these factors;

(d) The strategy should identify immediate actions necessary to prevent extinction of a listed salmon stock, establish performance measures to determine if restoration efforts are working, recommend effective monitoring and data management, and recommend to the legislature clear and certain measures to be implemented if performance goals are not met;

(e) The strategy shall rely on the best scientific information available and provide for incorporation of new information as it is obtained;

(f) The strategy should seek a fair allocation of the burdens and costs upon economic and social sectors of the state whose activities may contribute to limiting the recovery of salmon; and

(g) The strategy should seek clear measures and procedures from the appropriate federal agencies for removing Washington's salmon stocks from listing under the federal act.

(3) If the strategy is updated, an active and thorough public involvement process, including early and meaningful opportunity for public comment, must be utilized. In obtaining public comment, the governor's salmon recovery office shall work with regional salmon recovery organizations throughout the state and shall encourage regional and local recovery planning efforts to ensure an active public involvement process.

(4) This section shall apply prospectively only and not retroactively. Nothing in this section shall be construed to invalidate actions taken in recovery planning at the local, regional, or state level prior to July 1, 1999. [2009 c 345 § 11; 2007 c 444 § 6; 2005 c 309 § 9; 1999 sp.s. c 13 § 9. Formerly RCW 75.46.190.]

Finding—Intent—2009 c 345: See notes following RCW 77.85.030.

Additional notes found at www.leg.wa.gov

77.85.160 Salmon monitoring data, information.

State salmon monitoring data provided by lead entities, regional fisheries enhancement groups, and others shall be included in the database of SASSI [salmon and steelhead stock inventory] and SSHIAP [salmon and steelhead habitat inventory assessment project]. Information pertaining to habitat preservation projects funded through the Washington wildlife and recreation program, the conservation reserve enhancement program, and other conservancy programs related to salmon habitat shall be included in the SSHIAP database. [1999 sp.s. c 13 § 13. Formerly RCW 75.46.200.]

Additional notes found at www.leg.wa.gov

77.85.170 Salmon recovery account.

The salmon recovery account is created in the state treasury. To the account shall be deposited such funds as the legislature directs or appropriates to the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used for salmon recovery. [1999 sp.s. c 13 § 16. Formerly RCW 75.46.210.]

Additional notes found at www.leg.wa.gov

77.85.180 Findings.

(1) The legislature finds that the forests and fish report as defined in RCW 76.09.020 was developed through extensive negotiations with the federal agencies responsible for administering the endangered species act and the clean water act. The legislature further finds that the forestry industry, small landowners, tribal governments, state and federal agencies, and counties have worked diligently for nearly two years to reach agreement on scientifically based changes to the forest practices rules, set forth in the forests and fish report as defined in RCW 76.09.020. The legislature further finds that if existing forest practices rules are amended as proposed in the forests and fish report as defined in RCW 76.09.020, the resulting changes in forest practices (a) will lead to: (i) Salmon habitat that meets riparian functions vital to the long-term recovery of salmon on more than sixty thousand miles of streams in this state; (ii) identification of forest roads contributing to habitat degradation and corrective action to remedy those problems to protect salmon habitat; (iii) increased protection of steep and unstable slopes; and (iv) the implementation of scientifically based adaptive management and monitoring processes for evaluating the impacts of forest practices on aquatic resources, as defined in RCW 76.09.020, and a process for amending the forest practices rules to incorporate new information as it becomes available; (b) will lead to the protection of aquatic resources to the maximum extent practicable consistent with maintaining commercial forest management as an economically viable use of lands suitable for that purpose; and (c) will provide a regulatory climate and structure more likely to keep landowners from converting forestlands to other uses that would be less desirable for salmon recovery.

(2) The legislature further finds that the changes in laws and rules contemplated by chapter 4, Laws of 1999 sp. sess., taken as a whole, constitute a comprehensive and coordinated program to provide substantial and sufficient contributions to salmon recovery and water quality enhancement in areas impacted by forest practices and are intended to fully satisfy the requirements of the endangered species act (16 U.S.C. Sec. 1531 et seq.) with respect to incidental take of salmon

and other aquatic resources and the clean water act (33 U.S.C. Sec. 1251 et seq.) with respect to nonpoint source pollution attributable to forest practices.

(3) The legislature finds that coordination is needed between the laws relating to forestry in chapter 76.09 RCW and the state salmon recovery strategy being developed under this chapter. The coordination should ensure that nonfederal forestlands are managed in ways that make appropriate contributions to the recovery of salmonid fish, water quality, and related environmental amenities while encouraging continued investments in those lands for commercial forestry purposes. Specifically, the legislature finds that forest practices rules relating to water quality, salmon, certain other species of fish, certain species of stream-associated amphibians, and their respective habitats should be coordinated with the rules and policies relating to other land uses through the statewide salmon recovery planning process. The legislature further finds that this subchapter is but one part of a comprehensive salmon strategy as required in this chapter, and this investment in salmon habitat will be of little value if a comprehensive state plan is not completed and fully implemented.

(4) The legislature recognizes that the adoption of forest practices rules consistent with the forests and fish report as defined in RCW 76.09.020 will impose substantial financial burdens on forestland owners which, if not partially offset through other changes in the laws and rules governing forestry, could lead to significantly reduced silvicultural investments on nonfederal lands, deterioration in the quality, condition, and amounts of forests on those lands, and long-term adverse effects on fish and wildlife habitat and other environmental amenities associated with well managed forests. Moreover, as the benefits of the proposed revisions to the forest practices rules will benefit the general public, chapter 4, Laws of 1999 sp. sess. suggests that some of these costs be shared with the general public.

(5) As an integral part of implementing the salmon recovery strategy, chapter 4, Laws of 1999 sp. sess. (a) provides direction to the forest practices board, the department of natural resources, and the department of ecology with respect to the adoption, implementation, and enforcement of rules relating to forest practices and the protection of aquatic resources; (b) provides additional enforcement tools to the department of natural resources to enforce the forest practices rules; (c) anticipates the need for adequate and consistent funding for the various programmatic elements necessary to fully implement the strategy over time and derive the long-term benefits; (d) provides for the acquisition by the state of forestlands within certain stream channel migration zones where timber harvest will not be allowed; (e) provides for small landowners to have costs shared for a portion of any extraordinary economic losses attributable to the revisions to the forest practices rules required by chapter 4, Laws of 1999 sp. sess.; and (f) amends other existing laws to aid in the implementation of the recommendations set forth in the forests and fish report as defined in RCW 76.09.020. [1999 sp.s. c 4 § 101. Formerly RCW 75.46.300.]

Additional notes found at www.leg.wa.gov

77.85.190 Federal assurances in forests and fish report—Events constituting failure of assurances—Governor's authority to negotiate. (1) Chapter 4, Laws of 1999

sp. sess. has been enacted on the assumption that the federal assurances described in the forests and fish report as defined in RCW 76.09.020 will be obtained and that forest practices conducted in accordance with chapter 4, Laws of 1999 sp. sess. and the rules adopted under chapter 4, Laws of 1999 sp. sess. will not be subject to additional regulations or restrictions for aquatic resources except as provided in the forests and fish report.

(2) The occurrence of any of the following events shall constitute a failure of assurances:

(a) Either (i) the national marine fisheries service or the United States fish and wildlife service fails to promulgate an effective rule under 16 U.S.C. Sec. 1533(d) covering each aquatic resource that is listed as threatened under the endangered species act within two years after the date on which the aquatic resource is so listed or, in the case of bull trout, within two years after August 18, 1999; or (ii) any such rule fails to permit any incidental take that would occur from the conduct of forest practices in compliance with the rules adopted under chapter 4, Laws of 1999 sp. sess. or fails to confirm that such forest practices would not otherwise be in violation of the endangered species act and the regulations promulgated under that act. However, this subsection (2)(a) is not applicable to any aquatic resource covered by an incidental take permit described in (c) of this subsection;

(b) Either the national marine fisheries service or the United States fish and wildlife service shall promulgate an effective rule under 16 U.S.C. Sec. 1533(d) covering any aquatic resource that would preclude the conduct of forest practices consistent with the prescriptions outlined in the forests and fish report. However, this subsection (2)(b) is not applicable to any aquatic resource covered by an incidental take permit described in (c) of this subsection;

(c) Either the secretary of the interior or the secretary of commerce fails to issue an acceptable incidental take permit under 16 U.S.C. Sec. 1539(a) covering all fish and wildlife species included within aquatic resources on or before June 30, 2005. An acceptable incidental take permit will (i) permit the incidental take, if any, of all fish and wildlife species included within aquatic resources resulting from the conduct of forest practices in compliance with the prescriptions outlined in the forests and fish report; (ii) provide protection to the state of Washington and its subdivisions and to landowners and operators; (iii) not require the commitment of additional resources beyond those required to be committed under the forests and fish report; and (iv) provide "no-surprises" protection as described in 50 C.F.R. Parts 17 and 222 (1998);

(d) Either the national marine fisheries service or the United States fish and wildlife service fails to promulgate an effective rule under 16 U.S.C. Sec. 1533(d) within five years after the date on which a fish species is listed as threatened or endangered under the endangered species act which prohibits actions listed under 16 U.S.C. 1538;

(e) The environmental protection agency or department of ecology fails to provide the clean water act assurances described in appendix M to the forests and fish report; or

(f) The assurances described in (a) through (e) of this subsection are reversed or otherwise rendered ineffective by subsequent federal legislation or rule making or by final decision of any court of competent jurisdiction.

Upon the occurrence of a failure of assurances, any agency, tribe, or other interested person including, without limitation, any forestland owner, may provide written notice of the occurrence of such failure of assurances to the legislature and to the office of the governor. Promptly upon receipt of such a notice, the governor shall review relevant information and if he or she determines that a failure of assurances has occurred, the governor shall make such a finding in a written report with recommendations and deliver such report to the legislature. Upon notice of the occurrence of a failure of assurances, the legislature shall review chapter 4, Laws of 1999 sp. sess., all rules adopted by the forest practices board, the department of ecology, or the department of fish and wildlife at any time after January 1, 1999, that were adopted primarily for the protection of one or more aquatic resources and affect forest practices and the terms of the forests and fish report, and shall take such action, including the termination of funding or the modification of other statutes, as it deems appropriate.

(3) The governor may negotiate with federal officials, directly or through designated representatives, on behalf of the state and its agencies and subdivisions, to obtain assurances from federal agencies to the effect that compliance with the forest practices rules as amended under chapter 4, Laws of 1999 sp. sess. and implementation of the recommendations in the forests and fish report will satisfy federal requirements under the endangered species act and the clean water act and related regulations, including the negotiation of a rule adopted under section 4(d) of the endangered species act, entering into implementation agreements and receiving incidental take permits under section 10 of the endangered species act or entering into other intergovernmental agreements.

(4)(a) It is expressly understood that the state will pursue a rule delineating federal assurances under 16 U.S.C. Sec. 1533(d) and may concurrently develop a Sec. 10(a) habitat conservation plan by June 2005. The department of natural resources must report regularly to the house of representatives and senate natural resources committees on the progress of the program, and on any technical or legal issues that may arise.

(b) The forest and fish agreement as embodied in chapter 4, Laws of 1999 sp. sess. and this chapter, the rules adopted by the forest practices board to implement this chapter, and all protections for small forestland owners, are reaffirmed as part of the extension of time granted in chapter 228, Laws of 2002 and will be collectively included in the federal assurances sought by the state of Washington. [2002 c 228 § 1; 1999 sp.s. c 4 § 1301. Formerly RCW 75.46.350.]

Additional notes found at www.leg.wa.gov

77.85.200 Salmon and steelhead recovery program—Management board—Duties. (1) A program for salmon and steelhead recovery is established in Clark, Cowlitz, Lewis, Skamania, and Wahkiakum counties within the habitat areas classified as the lower Columbia evolutionarily significant units by the federal national marine fisheries service. The management board created under subsection (2) of this section is responsible for developing and overseeing the implementation of the habitat portion of the salmon and steelhead recovery plan and is empowered to receive and disburse funds for the salmon and steelhead recovery initiatives. The

management board created pursuant to this section shall constitute the lead entity and the committee established under RCW 77.85.050 responsible for fulfilling the requirements and exercising powers under this chapter.

(2) A management board consisting of fifteen voting members is created within the lower Columbia evolutionarily significant units. The members shall consist of one county commissioner or designee from each of the five participating counties selected by each county legislative authority; one member representing the cities contained within the lower Columbia evolutionarily significant units as a voting member selected by the cities in the lower Columbia evolutionarily significant units; a representative of the Cowlitz Tribe appointed by the tribe; one state legislator elected from one of the legislative districts contained within the lower Columbia evolutionarily significant units selected by that group of state legislators representing the area; five representatives to include at least one member who represents private property interests appointed by the five county commissioners or designees; one hydro utility representative nominated by hydro utilities and appointed by the five county commissioners or designees; and one representative nominated from the environmental community who resides in the lower Columbia evolutionarily significant units appointed by the five county commissioners or designees. The board shall appoint and consult a technical advisory committee, which shall include four representatives of state agencies one each appointed by the directors of the departments of ecology, fish and wildlife, and transportation, and the commissioner of public lands. The board may also appoint additional persons to the technical advisory committee as needed. The chair of the board shall be selected from among the members of the management board by the five county commissioners or designees and the legislator on the board. In making appointments under this subsection, the county commissioners shall consider recommendations of interested parties. Vacancies shall be filled in the same manner as the original appointments were selected. No action may be brought or maintained against any management board member, the management board, or any of its agents, officers, or employees for any noncontractual acts or omissions in carrying out the purposes of this section.

(3)(a) The management board shall participate in the development of a habitat recovery plan to implement its responsibilities under (b) of this subsection. The management board shall consider local watershed efforts and activities as well as habitat conservation plans in the development and implementation of the recovery plan. Any of the participating counties may continue its own efforts for restoring steelhead habitat. Nothing in this section limits the authority of units of local government to enter into interlocal agreements under chapter 39.34 RCW or any other provision of law.

(b) The management board is responsible for the development of a lower Columbia salmon and steelhead habitat recovery plan and for coordinating and monitoring the implementation of the plan. The management board will submit all future plans and amendments to plans to the governor's salmon recovery office for the incorporation of hatchery, harvest, and hydropower components of the statewide salmon recovery strategy for all submissions to the national marine fisheries service. In developing and implementing the habitat

recovery plan, the management board will work with appropriate federal and state agencies, tribal governments, local governments, and the public to make sure hatchery, harvest, and hydropower components receive consideration in context with the habitat component. The management board may work in cooperation with the state and the national marine fisheries service to modify the plan, or to address habitat for other aquatic species that may be subsequently listed under the federal endangered species act. The management board may not exercise authority over land or water within the individual counties or otherwise preempt the authority of any units of local government.

(c) The management board shall prioritize as appropriate and approve projects and programs related to the recovery of lower Columbia river salmon and steelhead runs, including the funding of those projects and programs, and coordinate local government efforts as prescribed in the recovery plan. The management board shall establish criteria for funding projects and programs based upon their likely value in salmon and steelhead recovery. The management board may consider local economic impact among the criteria, but jurisdictional boundaries and factors related to jurisdictional population may not be considered as part of the criteria.

(d) The management board shall assess the factors for decline along each tributary basin in the lower Columbia. The management board is encouraged to take a stream-by-stream approach in conducting the assessment which utilizes state and local expertise, including volunteer groups, interest groups, and affected units of local government.

(4) The management board has the authority to hire and fire staff, including an executive director, enter into contracts, accept grants and other moneys, disburse funds, make recommendations to cities and counties about potential code changes and the development of programs and incentives upon request, pay all necessary expenses, and may choose a fiduciary agent. The management board shall report on its progress on a biennial basis to the legislative bodies of the five participating counties and the state natural resource-related agencies. The management board shall prepare a final report at the conclusion of the program describing its efforts and successes in developing and implementing the lower Columbia salmon and steelhead recovery plan. The final report shall be transmitted to the appropriate committees of the legislature, the legislative bodies of the participating counties, and the state natural resource-related agencies.

(5) For purposes of this section, "evolutionarily significant unit" means the habitat area identified for an evolutionarily significant unit of an aquatic species listed or proposed for listing as a threatened or endangered species under the federal endangered species act (16 U.S.C. Sec. 1531 et seq.). [2009 c 199 § 1; 2005 c 308 § 1; 2001 c 135 § 1; 2000 c 107 § 121; 1998 c 60 § 2. Formerly RCW 75.56.050.]

Finding—Intent—1998 c 60: "The legislature recognizes the need to address listings that are made under the federal endangered species act (16 U.S.C. Sec. 1531 et seq.) in a way that will make the most efficient use of existing efforts. The legislature finds that the principle of adaptive management requires that different models should be tried so that the lessons learned from these models can be put to use throughout the state. It is the intent of the legislature to create a program for southwestern Washington to address the recent steelhead listings and which takes full advantage of all state and local efforts at habitat restoration in that area to date." [2001 c 135 § 2; 1998 c 60 § 1.]

Additional notes found at www.leg.wa.gov

77.85.220 Salmon intertidal habitat restoration planning process—Task force—Reports. (1) If a limiting factors analysis has been conducted under this chapter for a specific geographic area and that analysis shows insufficient intertidal salmon habitat, the department of fish and wildlife and the county legislative authorities of the affected counties may jointly initiate a salmon intertidal habitat restoration planning process to develop a plan that addresses the intertidal habitat goals contained in the limiting factors analysis. The fish and wildlife commission and the county legislative authorities of the geographic area shall jointly appoint a task force composed of the following members:

(a) One representative of the fish and wildlife commission, appointed by the chair of the commission;

(b) Two representatives of the agricultural industry familiar with agricultural issues in the geographic area, one appointed by an organization active in the geographic area and one appointed by a statewide organization representing the industry;

(c) Two representatives of environmental interest organizations with familiarity and expertise of salmon habitat, one appointed by an organization in the geographic area and one appointed by a statewide organization representing environmental interests;

(d) One representative of a diking and drainage district, appointed by the individual districts in the geographic area or by an association of diking and drainage districts;

(e) One representative of the lead entity for salmon recovery in the geographic area, appointed by the lead entity;

(f) One representative of each county in the geographic area, appointed by the respective county legislative authorities; and

(g) One representative from the office of the governor.

(2) Representatives of the United States environmental protection agency, the United States natural resources conservation service, federal fishery agencies, as appointed by their regional director, and tribes with interests in the geographic area shall be invited and encouraged to participate as members of the task force.

(3) The task force shall elect a chair and adopt rules for conducting the business of the task force. Staff support for the task force shall be provided by the Washington state conservation commission.

(4) The task force shall:

(a) Review and analyze the limiting factors analysis for the geographic area;

(b) Initiate and oversee intertidal salmon habitat studies for enhancement of the intertidal area as provided in RCW 77.85.230;

(c) Review and analyze the completed assessments listed in RCW 77.85.230;

(d) Develop and draft an overall plan that addresses identified intertidal salmon habitat goals that has public support; and

(e) Identify appropriate demonstration projects and early implementation projects that are of high priority and should commence immediately within the geographic area.

(2021 Ed.)

(5) The task force may request briefings as needed on legal issues that may need to be considered when developing or implementing various plan options.

(6) Members of the task force shall be reimbursed by the conservation commission for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(7) The task force shall provide annual reports that provide an update on its activities to the fish and wildlife commission, to the involved county legislative authorities, and to the lead entity formed under this chapter. [2003 c 391 § 4.]

Additional notes found at www.leg.wa.gov

77.85.230 Intertidal salmon enhancement plan—Elements—Initial and final plan. (1) In consultation with the appropriate task force formed under RCW 77.85.220, the conservation commission may contract with universities, private consultants, nonprofit groups, or other entities to assist it in developing a plan incorporating the following elements:

(a) An inventory of existing tide gates located on streams in the county. The inventory shall include location, age, type, and maintenance history of the tide gates and other factors as determined by the appropriate task force in consultation with the county and diking and drainage districts;

(b) An assessment of the role of tide gates located on streams in the county; the role of intertidal fish habitat for various life stages of salmon; the quantity and characterization of intertidal fish habitat currently accessible to fish; the quantity and characterization of the present intertidal fish habitat created at the time the dikes and outlets were constructed; the quantity of potential intertidal fish habitat on public lands and alternatives to enhance this habitat; the effects of saltwater intrusion on agricultural land, including the effects of backfeeding of salt water through the underground drainage system; the role of tide gates in drainage systems, including relieving excess water from saturated soil and providing reservoir functions between tides; the effect of saturated soils on production of crops; the characteristics of properly functioning intertidal fish habitat; a map of agricultural lands designated by the county as having long-term commercial significance and the effect of that designation; and the economic impacts to existing land uses for various alternatives for tide gate alteration; and

(c) A long-term plan for intertidal salmon habitat enhancement to meet the goals of salmon recovery and protection of agricultural lands. The proposal shall consider all other means to achieve salmon recovery without converting farmland. The proposal shall include methods to increase fish passage and otherwise enhance intertidal habitat on public lands pursuant to subsection (2) of this section, voluntary methods to increase fish passage on private lands, a priority list of intertidal salmon enhancement projects, and recommendations for funding of high priority projects. The task force also may propose pilot projects that will be designed to test and measure the success of various proposed strategies.

(2) In conjunction with other public landowners and the appropriate task force formed under RCW 77.85.220, the department shall develop an initial salmon intertidal habitat enhancement plan for public lands in the county. The initial plan shall include a list of public properties in the intertidal zone that could be enhanced for salmon, a description of how those properties could be altered to support salmon, a

description of costs and sources of funds to enhance the property, and a strategy and schedule for prioritizing the enhancement of public lands for intertidal salmon habitat. This initial plan shall be submitted to the appropriate task force at least six months before the deadline established in subsection (3) of this section.

(3) The final intertidal salmon enhancement plan shall be completed within two years from the date the task force is formed under RCW 77.85.220 and funding has been secured. A final plan shall be submitted by the appropriate task force to the lead entity for the geographic area established under this chapter. [2009 c 333 § 24; 2003 c 391 § 5.]

Additional notes found at www.leg.wa.gov

77.85.240 Puget Sound partners. When administering funds under this chapter, the board shall give preference only to Puget Sound partners, as defined in RCW 90.71.010, in comparison to other entities that are eligible to be included in the definition of Puget Sound partner. Entities that are not eligible to be a Puget Sound partner due to geographic location, composition, exclusion from the scope of the Puget Sound action agenda developed by the Puget Sound partnership under RCW 90.71.310, or for any other reason, shall not be given less preferential treatment than Puget Sound partners. [2007 c 341 § 37.]

Additional notes found at www.leg.wa.gov

Chapter 77.95 RCW

SALMON ENHANCEMENT PROGRAM

Sections

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77.95.340	Identification and removal of impediments to fish passage.

77.95.010 Legislative findings. Currently, many of the salmon stocks of Washington state are critically reduced from their sustainable level. The best interests of all fishing groups and the citizens as a whole are served by a stable and productive salmon resource. Immediate action is needed to reverse the severe decline of the resource and to insure its very survival. The legislature finds a state of emergency exists and that immediate action is required to restore its fishery.

Disagreement and strife have dominated the salmon fisheries for many years. Conflicts among the various fishing interests have only served to erode the resource. It is time for the state of Washington to make a major commitment to increasing productivity of the resource and to move forward with an effective rehabilitation and enhancement program. The commission is directed to dedicate its efforts and the efforts of the department to seek resolution to the many conflicts that involve the resource.

Success of the enhancement program can only occur if projects efficiently produce salmon or restore habitat. The expectation of the program is to optimize the efficient use of funding on projects that will increase artificially and naturally produced salmon, restore and improve habitat, or identify ways to increase the survival of salmon. The full utilization of state resources and cooperative efforts with interested groups are essential to the success of the program. [1995 1st sp.s. c 2 § 33 (Referendum Bill No. 45, approved November 7, 1995); 1993 sp.s. c 2 § 45; 1985 c 458 § 1. Formerly RCW 75.50.010.]

Additional notes found at www.leg.wa.gov

77.95.020 Long-term regional policy statements. (1) The commission shall develop long-term regional policy statements regarding the salmon fishery resources before December 1, 1985. The commission shall consider the following in formulating and updating regional policy statements:

- Existing resource needs;
- Potential for creation of new resources;
- Successful existing programs, both within and outside the state;
- Balanced utilization of natural and hatchery production;
- Desires of the fishing interest;
- Need for additional data or research;
- Federal court orders; and
- Salmon advisory council recommendations.

(2) The commission shall review and update each policy statement at least once each year. [1995 1st sp.s. c 2 § 34 (Referendum Bill No. 45, approved November 7, 1995); 1985 c 458 § 2. Formerly RCW 75.50.020.]

Additional notes found at www.leg.wa.gov

77.95.030 Salmon enhancement plan—Enhancement projects. (1) The commission shall develop a detailed salmon enhancement plan with proposed enhancement projects. The plan and the regional policy statements shall be submitted to the secretary of the senate and chief clerk of the house of representatives for legislative distribution by June 30, 1986. The enhancement plan and regional policy statements shall be provided by June 30, 1986, to the natural resources committees of the house of representatives and the senate. The commission shall provide a maximum opportunity for the public to participate in the development of the salmon enhancement plan. To insure full participation by all interested parties, the commission shall solicit and consider enhancement project proposals from Indian tribes, sports fishers, commercial fishers, private aquaculturists, and other interested groups or individuals for potential inclusion in the salmon enhancement plan. Joint or cooperative enhancement projects shall be considered for funding.

(2) The following criteria shall be used by the commission in formulating the project proposals:

- (a) Compatibility with the long-term policy statement;
- (b) Benefit/cost analysis;
- (c) Needs of all fishing interests;
- (d) Compatibility with regional plans, including harvest management plans;
- (e) Likely increase in resource productivity;
- (f) Direct applicability of any research;
- (g) Salmon advisory council recommendations;
- (h) Compatibility with federal court orders;
- (i) Coordination with the salmon and steelhead advisory commission program;
- (j) Economic impact to the state;
- (k) Technical feasibility; and
- (l) Preservation of native salmon runs.

(3) The commission shall not approve projects that serve as replacement funding for projects that exist prior to May 21, 1985, unless no other sources of funds are available.

(4) The commission shall prioritize various projects and establish a recommended implementation time schedule. [2013 c 23 § 246; 1995 1st sp.s. c 2 § 35 (Referendum Bill No. 45, approved November 7, 1995); 1985 c 458 § 3. Formerly RCW 75.50.030.]

Additional notes found at www.leg.wa.gov

77.95.040 Commission to monitor enhancement projects and enhancement plan. Upon approval by the legislature of funds for its implementation, the commission shall monitor the progress of projects detailed in the salmon enhancement plan.

The commission shall be responsible for establishing criteria which shall be used to measure the success of each project in the salmon enhancement plan. [1995 1st sp.s. c 2 § 36 (Referendum Bill No. 45, approved November 7, 1995); 1985 c 458 § 4. Formerly RCW 75.50.040.]

Additional notes found at www.leg.wa.gov

77.95.050 "Enhancement project" defined. As used in this chapter, "enhancement project" means salmon propagation activities including, but not limited to, hatcheries, spawning channels, rearing ponds, egg boxes, fishways, fish screens, streambed clearing, erosion control, habitat resto-

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ration, net pens, applied research projects, and any equipment, real property, or other interest necessary to the proper operation thereof. [1985 c 458 § 6. Formerly RCW 75.50.060.]

77.95.060 Regional fisheries enhancement group authorized. The legislature finds that it is in the best interest of the salmon resource of the state to encourage the development of regional fisheries enhancement groups. The accomplishments of one existing group, the Grays Harbor fisheries enhancement task force, have been widely recognized as being exemplary. The legislature recognizes the potential benefits to the state that would occur if each region of the state had a similar group of dedicated citizens working to enhance the salmon resource.

The legislature authorizes the formation of regional fisheries enhancement groups. These groups shall be eligible for state financial support and shall be actively supported by the commission and the department. The regional groups shall be operated on a strictly nonprofit basis, and shall seek to maximize the efforts of volunteer and private donations to improve the salmon resource for all citizens of the state. [1995 1st sp.s. c 2 § 38 (Referendum Bill No. 45, approved November 7, 1995); 1993 sp.s. c 2 § 46; 1989 c 426 § 1. Formerly RCW 75.50.070.]

Additional notes found at www.leg.wa.gov

77.95.070 Regional fisheries enhancement groups—Goals. Regional fisheries enhancement groups, consistent with the long-term regional policy statements developed under RCW 77.95.020, shall seek to:

- (1) Enhance the salmon and steelhead resources of the state;
- (2) Maximize volunteer efforts and private donations to improve the salmon and steelhead resources for all citizens;
- (3) Assist the department in achieving the goal to double the statewide salmon and steelhead catch by the year 2000; and
- (4) Develop projects designed to supplement the fishery enhancement capability of the department. [2000 c 107 § 105; 1997 c 389 § 5; 1993 sp.s. c 2 § 47; 1989 c 426 § 4. Formerly RCW 75.50.080.]

Findings—1997 c 389: See note following RCW 77.95.100.

Additional notes found at www.leg.wa.gov

77.95.080 Regional fisheries enhancement groups—Incorporation prerequisites. Each regional fisheries enhancement group shall be incorporated pursuant to Title 24 RCW. Any interested person or group shall be permitted to join. It is desirable for the group to have representation from all categories of fishers and other parties that have interest in salmon within the region, as well as the general public. [1990 c 58 § 2. Formerly RCW 75.50.090.]

Findings—1990 c 58: "The legislature finds that: (1) It is in the best interest of the state to encourage nonprofit regional fisheries enhancement groups authorized in RCW 75.50.070 to participate in enhancing the state's salmon population including, but not limited to, salmon research, increased natural and artificial production, and through habitat improvement; (2) such regional fisheries enhancement groups interested in improving salmon habitat and rearing salmon shall be eligible for financial assistance; (3) such regional fisheries enhancement groups should seek to maximize the efforts of volunteer personnel and private donations; (4) this program will assist the

state in its goal to double the salmon catch by the year 2000; (5) this program will benefit both commercial and recreational fisheries and improve cooperative efforts to increase salmon production through a coordinated approach with similar programs in other states and Canada; and (6) the Grays Harbor fisheries enhancement task force's exemplary performance in salmon enhancement provides a model for establishing regional fisheries enhancement groups by rule adopted under RCW 75.50.070, 75.50.080, and 75.50.090 through 75.50.110." [1990 c 58 § 1.]

77.95.090 Regional fisheries enhancement group account—Revenue sources, uses, and limitations. The dedicated regional fisheries enhancement group account is created in the custody of the state treasurer. Only the commission or the commission's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures.

A portion of each recreational fishing license fee shall be used as provided in RCW 77.32.440. A surcharge of one hundred dollars shall be collected on each commercial salmon fishery license, each salmon delivery license, and each salmon charter license sold in the state. All receipts shall be placed in the regional fisheries enhancement group account and shall be used exclusively for regional fisheries enhancement group projects for the purposes of *RCW 77.95.110. Except as provided in RCW 77.95.320, funds from the regional fisheries enhancement group account shall not serve as replacement funding for department operated salmon projects that exist on January 1, 1991.

All revenue from the department's sale of salmon carcasses and eggs that return to group facilities shall be deposited in the regional fisheries enhancement group account for use by the regional fisheries enhancement group that produced the surplus. The commission shall adopt rules to implement this section pursuant to chapter 34.05 RCW. [2009 c 340 § 4; 2000 c 107 § 106. Prior: 1998 c 245 § 155; 1998 c 191 § 27; 1995 1st sp.s. c 2 § 39 (Referendum Bill No. 45, approved November 7, 1995); prior: 1993 sp.s. c 17 § 11; 1993 c 340 § 53; 1990 c 58 § 3. Formerly RCW 75.50.100.]

*Reviser's note: RCW 77.95.110 was repealed by 2010 1st sp.s. c 7 § 81.

Findings—2009 c 340: See note following RCW 77.95.320.

Finding—Contingent effective date—Severability—1993 sp.s. c 17: See notes following RCW 77.32.520.

Finding, intent—Captions not law—Effective date—Severability—1993 c 340: See notes following RCW 77.65.010.

Findings—1990 c 58: See note following RCW 77.95.080.

Additional notes found at www.leg.wa.gov

77.95.100 Regional fisheries enhancement groups—Start-up funds. The department may provide start-up funds to regional fisheries enhancement groups for costs associated with any enhancement project. The commission shall develop guidelines for providing funds to the regional fisheries enhancement groups. [2010 1st sp.s. c 7 § 82; 2000 c 107 § 107; 1997 c 389 § 2. Formerly RCW 75.50.105.]

Findings—1997 c 389: "(1) The legislature finds that:

(a) Currently, many of the salmon stocks on the Washington coast and in Puget Sound are severely depressed and may soon be listed under the federal endangered species act.

(b) Immediate action is needed to reverse the severe decline of this resource and ensure its very survival.

(c) The cooperation and participation of private landowners is crucial in efforts to restore and enhance salmon populations.

(d) Regional fisheries enhancement groups have been exceptionally successful in their efforts to work with private landowners to restore and enhance salmon habitat on private lands.

(e) State funding for regional fisheries enhancement groups has been declining and is a significant limitation to current fisheries enhancement and habitat restoration efforts.

(f) Therefore, a stable funding source is essential to the success of the regional enhancement groups and their efforts to work cooperatively with private landowners to restore salmon resources.

(2) The legislature further finds that:

(a) The increasing population and continued development throughout the state, and the transportation system needed to serve this growth, have exacerbated problems associated with culverts, creating barriers to fish passage.

(b) These barriers obstruct habitat and have resulted in reduced production and survival of anadromous and resident fish at a time when salmonid stocks continue to decline.

(c) Current state laws do not appropriately direct resources for the correction of fish passage obstructions related to transportation facilities.

(d) Current fish passage management efforts related to transportation projects lack necessary coordination on a watershed, regional, and statewide basis, have inadequate funding, and fail to maximize use of available resources.

(e) Therefore, the legislature finds that the department of transportation and the department of fish and wildlife should work with state, tribal, local government, and volunteer entities to develop a coordinated, watershed-based fish passage barrier removal program." [1997 c 389 § 1.]

Additional notes found at www.leg.wa.gov

77.95.130 Regional fisheries enhancement salmonid recovery account—Created. The regional fisheries enhancement salmonid recovery account is created in the state treasury. All receipts from federal sources and moneys from state sources specified by law must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used for the sole purpose of fisheries enhancement and habitat restoration by regional fisheries enhancement groups. [1997 c 389 § 3. Formerly RCW 75.50.125.]

Findings—1997 c 389: See note following RCW 77.95.100.

77.95.140 Skagit river salmon recovery plan. The commission shall prepare a salmon recovery plan for the Skagit river. The plan shall include strategies for employing displaced timber workers to conduct salmon restoration and other tasks identified in the plan. The plan shall incorporate the best available technology in order to achieve maximum restoration of depressed salmon stocks. The plan must encourage the restoration of natural spawning areas and natural rearing of salmon but must not preclude the development of an active hatchery program. [1995 1st sp.s. c 2 § 41 (Referendum Bill No. 45, approved November 7, 1995); 1993 sp.s. c 2 § 48; 1992 c 88 § 1. Formerly RCW 75.50.130.]

Additional notes found at www.leg.wa.gov

77.95.150 Coordination with regional enhancement groups—Findings. The legislature finds that:

(1) Regional enhancement groups are a valuable resource for anadromous fish recovery. They improve critical fish habitat and directly contribute to anadromous fish populations through fish restoration technology.

(2) Due to a decrease in recreational and commercial salmon license sales, regional enhancement groups are receiving fewer financial resources at a time when recovery efforts are needed most.

(3) To maintain regional enhancement groups as an effective enhancement resource, technical assets of state agencies must be coordinated and utilized to maximize the financial resources of regional enhancement groups and overall fish recovery efforts. [1995 c 367 § 1. Formerly RCW 75.50.150.]

Additional notes found at www.leg.wa.gov

77.95.160 Fish passage barrier removal board—Membership—Duties. (1) The department shall maintain a fish passage barrier removal board. The board must be composed of a representative from the department, the department of transportation, cities, counties, the governor's salmon recovery office, tribal governments, and the department of natural resources. The representative of the department must serve as chair of the board and may expand the membership of the board to representatives of other governments, stakeholders, and interested entities.

(2)(a) The duty of the board is to identify and expedite the removal of human-made or caused impediments to anadromous fish passage in the most efficient manner practical through the development of a coordinated approach and schedule that identifies and prioritizes the projects necessary to eliminate fish passage barriers caused by state and local roads and highways and barriers owned by private parties.

(b) The coordinated approach must address fish passage barrier removals in all areas of the state in a manner that is consistent with a recognition that scheduling and prioritization is necessary.

(c) The board must coordinate and mutually share information, when appropriate, with:

(i) Other fish passage correction programs, including local salmon recovery plan implementation efforts through the governor's salmon recovery office;

(ii) The applicable conservation districts when developing schedules and priorities within set geographic areas or counties; and

(iii) The recreation and conservation office to ensure that barrier removal methodologies are consistent with, and maximizing the value of, other salmon recovery efforts and habitat improvements that are not primarily based on the removal of barriers.

(d) Recommendations must include proposed funding mechanisms and other necessary mechanisms and methodologies to coordinate state, tribal, local, and volunteer barrier removal efforts within each water resource inventory area and satisfy the principles of RCW 77.95.180. To the degree practicable, the board must utilize the database created in RCW 77.95.170 and information on fish barriers developed by conservation districts to guide methodology development. The board may consider recommendations by interested entities from the private sector and regional fisheries enhancement groups.

(e) When developing a prioritization methodology under this section, the board shall consider:

(i) Projects benefiting depressed, threatened, and endangered stocks;

(ii) Projects providing access to available and high quality spawning and rearing habitat;

(iii) Correcting the lowest barriers within the stream first;

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(iv) Whether an existing culvert is a full or partial barrier;

(v) Projects that are coordinated with other adjacent barrier removal projects; and

(vi) Projects that address replacement of infrastructure associated with flooding, erosion, or other environmental damage. (f) The board may not make decisions on fish passage standards or categorize as impassible culverts or other infrastructure developments that have been deemed passable by the department. [2014 c 120 § 4; 2000 c 107 § 110; 1997 c 389 § 6; 1995 c 367 § 2. Formerly RCW 75.50.160.]

Findings—1997 c 389: See note following RCW 77.95.100.

Additional notes found at www.leg.wa.gov

77.95.170 Salmonid fish passage—Removing impediments—Grant program—Administration—Database directory.

(1) The department may coordinate with the recreation and conservation office in the administration of all state grant programs specifically designed to assist state agencies, private landowners, tribes, organizations, and volunteer groups in identifying and removing impediments to salmonid fish passage. The transportation improvement board may administer all grant programs specifically designed to assist cities, counties, and other units of local governments with fish passage barrier corrections associated with transportation projects. All grant programs must be administered and be consistent with the following:

(a) Salmonid-related corrective projects, inventory, assessment, and prioritization efforts;

(b) Salmonid projects subject to a competitive application process; and

(c) A minimum dollar match rate that is consistent with the funding authority's criteria. If no funding match is specified, a match amount of at least twenty-five percent per project is required. For local, private, and volunteer projects, in-kind contributions may be counted toward the match requirement.

(2) Priority shall be given to projects that match the principles provided in RCW 77.95.180.

(3) All projects subject to this section shall be reviewed and approved by the fish passage barrier removal board created in RCW 77.95.160 or an alternative oversight committee designated by the state legislature.

(4) Other agencies that administer natural resource-based grant programs shall use fish passage selection criteria that are consistent with this section when those programs are addressing fish passage barrier removal projects.

(5)(a) The department shall establish a centralized database directory of all fish passage barrier information. The database directory must include, but is not limited to, existing fish passage inventories, fish passage projects, grant program applications, and other databases. These data must be used to coordinate and assist in habitat recovery and project mitigation projects.

(b) The department must develop a barrier inventory training program that qualifies participants to perform barrier inventories and develop data that enhance the centralized database. The department may decide the qualifications for participation. However, employees and volunteers of conservation districts and regional salmon recovery groups must be

given priority consideration. [2014 c 120 § 3; 1999 c 242 § 4; 1998 c 249 § 16. Formerly RCW 75.50.165.]

Findings—Purpose—Report—Effective date—1998 c 249: See notes following RCW 77.55.181.

77.95.180 Fish passage barrier removal program.

(1)(a) To maximize available state resources, the department and the department of transportation must work in partnership to identify and complete projects to eliminate fish passage barriers caused by state roads and highways.

(b) The partnership between the department and the department of transportation must be based on the principle of maximizing habitat recovery through a coordinated investment strategy that, to the maximum extent practical and allowable, prioritizes opportunities: To correct multiple fish barriers in whole streams rather than through individual, isolated projects; to coordinate with other entities sponsoring barrier removals, such as regional fisheries enhancement groups incorporated under this chapter, in a manner that achieves the greatest cost savings to all parties; and to correct barriers located furthest downstream in a stream system. Examples of this principle include:

(i) Coordinating with all relevant state agencies and local governments to maximize the habitat recovery value of the investments made by the state to correct fish passage barriers;

(ii) Maximizing the habitat recovery value of investments made by public and private forestland owners through the road maintenance and abandonment planning process outlined in the forest practices rules, as that term is defined in RCW 76.09.020;

(iii) Recognizing that many of the barriers owned by the state are located in the same stream systems as barriers that are owned by cities and counties with limited financial resources for correction and that state-local partnership opportunities should be sought to address these barriers; and

(iv) Recognizing the need to continue investments in the family forest fish passage program created pursuant to RCW 76.13.150 and other efforts to address fish passage barriers owned by private parties that are in the same stream systems as barriers owned by public entities.

(2) The department shall also provide engineering and other technical services to assist nonstate barrier owners with fish passage barrier removal projects, provided that the barrier removal projects have been identified as a priority by the department and the department has received an appropriation to continue that component of a fish barrier removal program.

(3) Nothing in this section is intended to:

(a) Alter the process and prioritization methods used in the implementation of the forest practices rules, as that term is defined in RCW 76.09.020, or the family forest fish passage program, created pursuant to RCW 76.13.150, that provides public cost assistance to small forestland owners associated with the road maintenance and abandonment processes; or

(b) Prohibit or delay fish barrier projects undertaken by the department of transportation or another state agency that are a component of an overall transportation improvement project or that are being undertaken as a direct result of state law, federal law, or a court order. However, the department of transportation or another state agency is required to work in partnership with the fish passage barrier removal board cre-

ated in RCW 77.95.160 to ensure that the scheduling, staging, and implementation of these projects are, to [the] maximum extent practicable, consistent with the coordinated and prioritized approach adopted by the fish passage barrier removal board. [2014 c 120 § 2; 2010 1st sp.s. c 7 § 83; 1995 c 367 § 3. Formerly RCW 75.50.170.]

Additional notes found at www.leg.wa.gov

77.95.185 Local fish passage barrier removal—Compensatory mitigation preference—Mitigation framework for off-site and out-of-kind barriers—In lieu fee program.

(1) The department of transportation, the department of ecology, and the department of fish and wildlife must use their existing authorities and guidance to provide a preference for the removal of existing fish passage barriers owned by cities and counties as compensatory mitigation for environmental impacts of transportation projects where appropriate.

(2)(a) The department of transportation, the department of ecology, and the department of fish and wildlife must consult with other relevant entities to develop a framework for encouraging off-site and out-of-kind local fish passage barrier mitigation that provides results that are consistent with habitat protection priorities and are ecologically preferable to on-site mitigation.

(b) The implementation of this framework must:

(i) Not delay transportation project delivery;

(ii) Not be additive to the amount or cost of mitigation required under existing regulations;

(iii) Not preclude on-site or off-site and in-kind mitigation when that is the most ecologically appropriate means to address project impacts;

(iv) Not alter the mitigation sequencing principles of first avoidance and then minimization of impacts before compensatory mitigation;

(v) Provide for a mechanism that identifies whether environmental impacts from projects are appropriate for local fish passage barrier mitigation;

(vi) Provide a mechanism for affected parties, including tribes, to determine when and how to use off-site and out-of-kind mitigation to address fish passage barriers in particular watersheds;

(vii) Consult the statewide fish passage barrier removal strategy developed by the fish passage barrier removal board created in RCW 77.95.160 and information provided by affected tribes, salmon recovery regional organizations, and local entities to identify specific priority locations where removal of local barriers would provide a net resource gain; and

(viii) Consistent with existing mitigation regulations and guidelines, provide a preference, where appropriate, for investment in local fish passage barrier removal where greater environmental benefit can be achieved with off-site and out-of-kind mitigation.

(c) In addition to the framework developed in (b) of this subsection, the department of transportation, the department of ecology, and the department of fish and wildlife must develop and implement an umbrella statewide in lieu fee program or other formal means to provide a streamlined mechanism to undertake priority local fish passage barrier corrections throughout the watersheds of the state as a preferred means of compensatory mitigation where appropriate for

state transportation that is consistent with the principles in (a) and (b) of this subsection.

(3) Nothing in this section is intended to create or expand the state's obligation for fish passage barrier correction according to existing law or court ruling. Nothing in this section is intended to decrease funding or otherwise impede the state's efforts to meet its obligation for fish passage barrier correction according to existing law or court ruling. [2015 3rd sp.s. c 17 § 10.]

Effective date—2015 3rd sp.s. c 17: See note following RCW 47.85.005.

77.95.190 Field testing of remote site incubators. The department shall field test coho and chinook salmon remote site incubators. The purpose of field testing efforts shall be to gather conclusive scientific data on the effectiveness of coho and chinook remote site incubators. [2010 1st sp.s. c 7 § 84; 1995 c 367 § 10. Formerly RCW 75.50.180.]

Additional notes found at www.leg.wa.gov

77.95.200 Remote site incubator program—Reports to the fish and wildlife commission. (1) The department shall develop and implement a program utilizing remote site incubators in Washington state. The program shall identify sites in tributaries that are suitable for reestablishing self-sustaining, locally adapted populations of coho, chum, or chinook salmon. The initial selection of sites shall be updated annually.

(2) The department may only approve a remote site incubator project if the department deems it is consistent with the conservation of wild salmon and trout. The department shall only utilize appropriate salmonid eggs in remote site incubators, and may acquire eggs by gift or purchase.

(3) The department shall depend chiefly upon volunteer efforts to implement the remote site incubator program through volunteer cooperative projects and the regional fisheries enhancement groups. The department may prioritize remote site incubator projects within regional enhancement areas.

(4) The department may purchase remote site incubators and may use agency employees to construct remote site incubators.

(5) The department shall investigate the use of the remote site incubator technology for the production of warm water fish.

(6) Annual reports on the progress of the program shall be provided to the fish and wildlife commission. [2009 c 333 § 29; 1998 c 251 § 2. Formerly RCW 75.50.190.]

Finding—1998 c 251: "The legislature finds that trout and salmon populations are depleted in many state waters. Restoration of these populations to a healthy status requires improved protection of these species and their habitats. However, in some instances restoration of self-sustaining populations also requires the reintroduction of the fish into their native habitat.

Remote site incubators have been shown to be a cost-effective means of bypassing the early period of high mortality experienced by salmonid eggs that are naturally spawned in streams. In addition, remote site incubators provide an efficient method for reintroduction of fish into areas that are not seeded by natural spawning. The technology for remote site incubators is well developed, and their application is easily accomplished in a wide variety of habitat by persons with a moderate level of training.

It is a goal of the remote site incubator program to assist the reestablishment of wild salmon and trout populations that are self-sustaining through natural spawning. In other cases, where the habitat has been permanently damaged and natural populations cannot sustain themselves, the remote site

incubator program may become a cost-effective long-term solution for supplementation of fish populations." [1998 c 251 § 1.]

77.95.210 Sale of surplus salmon eggs—Order of priority. (1) Except as provided in subsection (2) of this section, the department may supply, at a reasonable charge, surplus salmon eggs to a person for use in the cultivation of salmon. The department shall not intentionally create a surplus of salmon to provide eggs for sale. The department shall only sell salmon eggs from stocks that are not suitable for salmon population rehabilitation or enhancement in state waters in Washington after the salmon harvest on surplus salmon has been first maximized by both commercial and recreational fishers.

(2) The department shall not destroy hatchery origin salmon for the purposes of destroying viable eggs that would otherwise be useful for propagation or salmon recovery purposes, as determined by the department and Indian tribes with treaty fishing rights in a collaborative manner, for replenishing fish runs. Eggs deemed surplus by the state must be provided, in the following order of priority, to:

(a) Voluntary cooperative salmon culture programs under the supervision of the department under chapter 77.100 RCW;

(b) Regional fisheries enhancement group salmon culture programs under the supervision of the department under this chapter;

(c) Salmon culture programs requested by lead entities and approved by the salmon funding recovery board under chapter 77.85 RCW;

(d) Hatcheries of federally approved tribes in Washington to whom eggs are moved, not sold, under the interlocal cooperation act, chapter 39.34 RCW; and

(e) Governmental hatcheries in Washington, Oregon, and Idaho.

The order of priority established in this subsection for distributing surplus eggs does not apply when there is a shortfall in the supply of eggs.

(3) All sales, provisions, distributions, or transfers shall be consistent with the department's egg transfer and aquaculture disease control regulations as now existing or hereafter amended. Prior to department determination that eggs of a salmon stock are surplus and available for sale, the department shall assess the productivity of each watershed that is suitable for receiving eggs. [2001 c 337 § 1; 2000 c 107 § 11; 1988 c 115 § 1; 1983 1st ex.s. c 46 § 25; 1974 ex.s. c 23 § 1; 1971 c 35 § 4. Formerly RCW 75.08.245, 75.16.120.]

Sale of surplus salmon eggs and carcasses by volunteer cooperative fish projects: RCW 77.100.040.

77.95.220 Legislative finding. The legislature finds that:

(1) The fishery resources of Washington are critical to the social and economic needs of the citizens of the state;

(2) Salmon production is dependent on both wild and artificial production;

(3) The department is directed to enhance Washington's salmon runs; and

(4) Full utilization of the state's salmon rearing facilities is necessary to enhance commercial and recreational fisher-

ies. [1993 sp.s. c 2 § 24; 1989 c 336 § 1. Formerly RCW 75.08.400.]

Additional notes found at www.leg.wa.gov

77.95.230 Director's determination of salmon production costs. The director shall determine the cost of operating all state-funded salmon production facilities at full capacity and shall provide this information with the department's biennial budget request. [1989 c 336 § 2. Formerly RCW 75.08.410.]

Additional notes found at www.leg.wa.gov

77.95.240 State purchase of private salmon smolts. The director may contract with cooperatives or private aquaculturists for the purchase of quality salmon smolts for release into public waters if all department fish rearing facilities are operating at full capacity. The intent of cooperative and private sector contracting is to explore the opportunities of cooperatively producing more salmon for the public fisheries without incurring additional capital expense for the department. [1989 c 336 § 3. Formerly RCW 75.08.420.]

Additional notes found at www.leg.wa.gov

77.95.250 State purchase of private salmon smolts—Bids. If the director elects to contract with cooperatives or private aquaculturists for the purpose of purchasing quality salmon smolts, contracting shall be done by a competitive bid process. In awarding contracts to private contractors, the director shall give preference to nonprofit corporations. The director shall establish the criteria for the contract, which shall include but not be limited to species, size of smolt, stock composition, quantity, quality, rearing location, release location, and other pertinent factors. [1989 c 336 § 4. Formerly RCW 75.08.430.]

Additional notes found at www.leg.wa.gov

77.95.260 State purchase of private salmon smolts—Private ocean ranching not authorized. Nothing in chapter 336, Laws of 1989 shall authorize the practice of private ocean ranching. Privately contracted smolts become the property of the state at the time of release. [1989 c 336 § 5. Formerly RCW 75.08.440.]

Additional notes found at www.leg.wa.gov

77.95.270 State purchase of private salmon smolts—Availability of excess salmon eggs. Except as provided in RCW 77.95.210, the department may make available to private contractors salmon eggs in excess of department hatchery needs for the purpose of contract rearing to release the smolts into public waters. However, providing salmon eggs as specified in RCW 77.95.210(2) has the highest priority. The priority of providing eggs surplus after meeting the requirements of RCW 77.95.210(2) to contract rearing is a higher priority than providing eggs to aquaculture purposes that are not destined for release into Washington public waters. [2001 c 337 § 2; 1989 c 336 § 6. Formerly RCW 75.08.450.]

Additional notes found at www.leg.wa.gov

77.95.280 Chinook and coho salmon—External marking of hatchery-produced fish—Findings. The legis-

lature declares that the state has a vital interest in the continuation of recreational fisheries for chinook salmon and coho salmon in mixed stock areas, and that the harvest of hatchery origin salmon should be encouraged while wild salmon should be afforded additional protection when required. A program of selective harvest shall be developed utilizing hatchery salmon that are externally marked in a conspicuous manner, regulations that promote the unharmed release of unmarked fish, when and where appropriate, and a public information program that educates the public about the need to protect depressed stocks of wild salmon.

The legislature further declares that the establishment of other incentives for commercial fishing and fish processing in Washington will complement the program of selective harvest in mixed stock fisheries anticipated by this legislation. [1995 c 372 § 1. Formerly RCW 75.08.500.]

77.95.290 Chinook and coho salmon—External marking of hatchery-produced fish—Program. The department shall mark appropriate coho salmon that are released from department operated hatcheries and rearing ponds in such a manner that the fish are externally recognizable as hatchery origin salmon by fishers for the purpose of maximized catch while sustaining wild and hatchery reproduction.

The department shall mark all appropriate chinook salmon targeted for contribution to the Washington catch that are released from department operated hatcheries and rearing ponds in such a manner that the fish are externally recognizable as hatchery origin salmon by fishers.

The goal of the marking program is: (1) The annual marking by June 30, 1997, of all appropriate hatchery origin coho salmon produced by the department with marking to begin with the 1994 Puget Sound coho brood; and (2) the annual marking by June 30, 1999, of all appropriate hatchery origin chinook salmon produced by the department with marking to begin with the 1998 chinook brood. The department may experiment with different methods for marking hatchery salmon with the primary objective of maximum survival of hatchery marked fish, maximum contribution to fisheries, and minimum cost consistent with the other goals.

The department shall coordinate with other entities that are producing hatchery chinook and coho salmon for release into public waters to enable the broadest application of the marking program to all hatchery produced chinook and coho salmon. The department shall work with the treaty Indian tribes in order to reach mutual agreement on the implementation of the mass marking program. The ultimate goal of the program is the coast-wide marking of appropriate hatchery origin chinook and coho salmon, and the protection of all wild chinook and coho salmon, where appropriate. [1999 c 372 § 15; 1998 c 250 § 2; 1995 c 372 § 2. Formerly RCW 75.08.510.]

Findings—Intent—1998 c 250: "The legislature finds that mass marking of hatchery-raised salmon is an effective tool for implementing selective salmon fisheries in this state. Mass marking of coho salmon is currently underway and holds great promise for maintaining both recreational and commercial fishing opportunities while protecting wild stocks. In view of the anticipated listing of Puget Sound chinook salmon as endangered under the federal endangered species act, the legislature finds that it is essential to expeditiously proceed with implementing a mass marking program for chinook salmon in Puget Sound and elsewhere in the state.

Through a cooperative effort by state and federal agencies and private enterprise, appropriate technologies have been developed for marking chinook salmon. It is the intent of the legislature to use these newly developed tools to implement chinook salmon mass marking beginning in April 1999." [1998 c 250 § 1.]

77.95.300 Chinook and coho salmon—External marking of hatchery-produced fish—Rules. The department shall adopt rules to control the mixed stock chinook and coho fisheries of the state so as to sustain healthy stocks of wild salmon, allow the maximum survival of wild salmon, allow for spatially separated fisheries that target on hatchery stocks, foster the best techniques for releasing wild chinook and coho salmon, and contribute to the economic viability of the fishing businesses of the state. [1995 c 372 § 3. Formerly RCW 75.08.520.]

77.95.310 Report identifying total salmon and steelhead harvest. (1) The department shall maintain a report identifying total salmon and steelhead harvest. This report shall include the final commercial harvests and recreational harvests. At a minimum, the report shall clearly identify:

(a) The total treaty tribal and nontribal harvests by species and by management unit;

(b) Where and why the nontribal harvest does not meet the full allocation allowed under *United States v. Washington*, 384 F. Supp. 312 (1974) (Boldt I) including a summary of the key policies within the management plan that result in a less than full nontribal allocation; and

(c) The location and quantity of salmon and steelhead harvested under the wastage provisions of *United States v. Washington*, 384 F. Supp. 312 (1974).

(2) Upon request, the department shall present the report required to be maintained under this section to the appropriate committees of the legislature. [2009 c 333 § 30; 1997 c 414 § 1. Formerly RCW 75.08.530.]

77.95.320 Program utilizing department-partnership agreements to operate and manage certain hatcheries—Selection of partners—Partnership agreements. (1) The department shall establish a program that utilizes department-partner agreements for the resumption or continued operation and management of state-owned salmonid hatcheries that are located in the Hood Canal basin. To implement the program, the department shall accept and review applications to determine the appropriateness of the partner to manage and operate selected salmonid hatcheries. The department shall accelerate the application process relating to any hatchery currently in operation to avoid cessation of ongoing salmon production.

(2)(a) To select a partner, the department shall develop and apply criteria identifying the appropriateness of a potential partner. The criteria must seek to ensure that the partner has a long-range business plan, which may include the sale of hatchery surplus salmon, including eggs and carcasses, to ensure the long-range future solvency of the partnership. The business plan may also allow the partner to harvest hatchery chum salmon in a designated area through persons under contract with the partner as provided under a permit from the department or by rule of the commission. All chum salmon harvested must be sold at prices commensurate with the cur-

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rent market and all funds must be utilized by the partner to operate the hatchery.

(b) Partners under this section must be:

(i) Qualified under section 501(c)(3) of the internal revenue code;

(ii) A for-profit private entity; or

(iii) A federally recognized tribe.

(3) The department shall place a higher priority on applications from partners that provide for the maximum resumption or continuation of existing hatchery production in a manner consistent with the mandate contained in RCW 77.04.012 to maintain the economic well-being and stability of the fishing industry.

(4)(a) Agreements entered into with partners under this section must be consistent with existing federally recognized tribal rights, state laws, agency rules, collective bargaining agreements, hatchery management policy involving species listed under the federal endangered species act, or, in the case of a tribal partner, any applicable tribal hatchery management policy or recreational and commercial harvest policy.

(b) Agreements under this section must also require that partners give preference to retaining classified employees whenever possible. In circumstances where it is not possible, partners conducting hatchery operations must maintain staff with comparable qualifications to those identified in the class specifications for the department's fish hatchery personnel.

(5) All partnership agreements entered into under this section must contain a provision that requires the partner to hold harmless the department and the state for any civil liability arising from the partner's participation in the agreement or activities at the subject hatchery or hatcheries.

(6) All partnership agreements entered into under this section must identify any maintenance or improvements to be made to the hatchery facility, and the source of funding for such maintenance or improvements. If funding for the maintenance or improvements is to come from state funds or revenue sources previously received by the department, the work must be performed either by employees in the classified service or in compliance with the contracting procedures set forth in RCW 41.06.142. [2013 c 93 § 1; 2009 c 340 § 2.]

Findings—2009 c 340: "The legislature finds: (1) The full utilization of state salmonid hatcheries is vital to the recreational and commercial fisheries and related economic development and employment; and (2) effective measures are necessary to maintain all hatchery operations that are consistent with conservation of wild salmon populations and support sustainable fisheries." [2009 c 340 § 1.]

77.95.330 Powers and authorities conferred by chapter to be construed as in addition and supplemental. The powers and authority conferred by this chapter must be construed as in addition and supplemental to powers or authority conferred by any other law and nothing contained in this chapter may be construed as limiting any other powers or authority of the department. [2009 c 340 § 3.]

Findings—2009 c 340: See note following RCW 77.95.320.

77.95.340 Identification and removal of impediments to fish passage. The department may contract with cities and counties to assist in the identification and removal of impediments to fish passage. [2014 c 120 § 6.]

Chapter 77.100 RCW
VOLUNTEER FISH AND WILDLIFE
ENHANCEMENT PROGRAM

Sections

- 77.100.010 Legislative findings—Department to administer cooperative enhancement program.
- 77.100.020 Definitions.
- 77.100.030 Cooperative projects—Types.
- 77.100.040 Cooperative projects—Sale of surplus salmon eggs and carcasses.
- 77.100.050 Duties of department.
- 77.100.060 Commission to establish rules—Subjects.
- 77.100.070 Agreements for cooperative projects—Duration.
- 77.100.080 Duties of volunteer group.
- 77.100.090 Application of chapter.
- 77.100.100 Cedar river spawning channel.
- 77.100.110 Cedar river spawning channel—Technical committee—Policy committee.
- 77.100.120 Cedar river spawning channel—Specifications.
- 77.100.130 Cedar river spawning channel—Funding.
- 77.100.150 Cedar river spawning channel—Legislative declaration.
- 77.100.160 Cedar river spawning channel—Mitigation of water diversion projects.
- 77.100.170 Fish hatcheries—Volunteer group projects.

77.100.010 Legislative findings—Department to administer cooperative enhancement program. The fish and wildlife resources of the state benefit by the contribution of volunteer recreational and commercial fishing organizations, schools, and other volunteer groups in cooperative projects under agreement with the department. These projects provide educational opportunities, improve the communication between the natural resources agencies and the public, and increase the fish and game resources of the state. In an effort to increase these benefits and realize the full potential of cooperative projects, the department shall administer a cooperative fish and wildlife enhancement program and enter agreements with volunteer groups relating to the operation of cooperative projects. [1993 sp.s. c 2 § 49; 1988 c 36 § 41; 1984 c 72 § 1. Formerly RCW 75.52.010.]

Additional notes found at www.leg.wa.gov

77.100.020 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Volunteer group" means any person or group of persons interested in or party to an agreement with the department relating to a cooperative fish or wildlife project.

(2) "Cooperative project" means a project conducted by a volunteer group that will benefit the fish, shellfish, game bird, nongame wildlife, or game animal resources of the state and for which the benefits of the project, including fish and wildlife reared and released, are available to all citizens of the state. Indian tribes may elect to participate in cooperative fish and wildlife projects with the department. [2000 c 107 § 111; 1993 sp.s. c 2 § 50; 1988 c 36 § 42; 1984 c 72 § 2. Formerly RCW 75.52.020.]

Additional notes found at www.leg.wa.gov

77.100.030 Cooperative projects—Types. The department shall encourage and support the development and operation of cooperative projects of the following types:

(1) Cooperative food fish and game fish rearing projects, including but not limited to egg planting, egg boxes, juvenile planting, pen rearing, pond rearing, raceway rearing, and egg taking;

(2) Cooperative fish habitat improvement projects, including but not limited to fish migration improvement, spawning bed rehabilitation, habitat restoration, reef construction, lake fertilization, pond construction, pollution abatement, and endangered stock protection;

(3) Cooperative fish or game research projects if the project is clearly of a research nature and if the results are readily available to the public;

(4) Cooperative game bird and game animal projects, including but not limited to habitat improvement and restoration, replanting and transplanting, nest box installation, pen rearing, game protection, and supplemental feeding;

(5) Cooperative nongame wildlife projects, including but not limited to habitat improvement and restoration, nest box installation, establishment of wildlife interpretive areas or facilities, pollution abatement, supplemental feeding, and endangered species preservation and enhancement; and

(6) Cooperative information and education projects, including but not limited to landowner relations, outdoor ethics, natural history of Washington's fish, shellfish, and wildlife, and outdoor survival. [1984 c 72 § 3. Formerly RCW 75.52.030.]

77.100.040 Cooperative projects—Sale of surplus salmon eggs and carcasses. The department may authorize the sale of surplus salmon eggs and carcasses by permitted cooperative projects for the purposes of defraying the expenses of the cooperative project. In no instance shall the department allow a profit to be realized through such sales. The department shall adopt rules to implement this section pursuant to chapter 34.05 RCW. [1993 sp.s. c 2 § 51; 1987 c 48 § 1. Formerly RCW 75.52.035.]

Sale of surplus salmon eggs by department: RCW 77.95.210.

Additional notes found at www.leg.wa.gov

77.100.050 Duties of department. (1) The department shall:

(a) Encourage and support the establishment of cooperative agreements for the development and operation of cooperative food fish, shellfish, game fish, game bird, game animal, and nongame wildlife projects, and projects which provide an opportunity for volunteer groups to become involved in resource and habitat-oriented activities. All cooperative projects shall be fairly considered in the approval of cooperative agreements;

(b) Identify regions and species or activities that would be particularly suitable for cooperative projects providing benefits compatible with department goals;

(c) Determine the availability of rearing space at operating facilities or of net pens, egg boxes, portable rearing containers, incubators, and any other rearing facilities for use in cooperative projects, and allocate them to volunteer groups as fairly as possible;

(d) Make viable eggs available for replenishing fish runs, and salmon carcasses for nutrient enhancement of streams. If a regional fisheries enhancement group, lead entity, volunteer cooperative group, federally approved tribe in Washington, or a governmental hatchery in Washington, Oregon, or Idaho requests the department for viable eggs, the department must include the request within the brood stock document prepared for review by the regional offices. The eggs shall be distrib-

uted in accordance with the priority established in RCW 77.95.210 if they are available. A request for viable eggs may only be denied if the eggs would not be useful for propagation or salmon recovery purposes, as determined under RCW 77.95.210;

(e) Exempt volunteer groups from payment of fees to the department for activities related to the project;

(f) Publicize the cooperative program;

(g) Not substitute a new cooperative project for any part of the department's program unless mutually agreeable to the department and volunteer group;

(h) Not approve agreements that are incompatible with legally existing land, water, or property rights.

(2) The department may, when requested, provide to volunteer groups its available professional expertise and assist the volunteer group to evaluate its project. The department must conduct annual workshops in each administrative region of the department that has fish stocks listed as threatened or endangered under the federal endangered species act, 16 U.S.C. Sec. 1531 et seq., in order to assist volunteer groups with egg rearing, share information on successful salmon recovery projects accomplished by volunteers within the state, and provide basic training on monitoring efforts that can be accomplished by volunteers in order to help determine if their efforts are successful. [2001 c 337 § 3; 1987 c 505 § 73; 1984 c 72 § 4. Formerly RCW 75.52.040.]

77.100.060 Commission to establish rules—Subjects.

The commission shall establish by rule:

(1) The procedure for entering a cooperative agreement and the application forms for a permit to release fish or wildlife required by *RCW 77.12.457. The procedure shall indicate the information required from the volunteer group as well as the process of review by the department. The process of review shall include the means to coordinate with other agencies and Indian tribes when appropriate and to coordinate the review of any necessary hydraulic permit approval applications.

(2) The procedure for providing within forty-five days of receipt of a proposal a written response to the volunteer group indicating the date by which an acceptance or rejection of the proposal can be expected, the reason why the date was selected, and a written summary of the process of review. The response should also include any suggested modifications to the proposal which would increase its likelihood of approval and the date by which such modified proposal could be expected to be accepted. If the proposal is rejected, the department must provide in writing the reasons for rejection. The volunteer group may request the director or the director's designee to review information provided in the response.

(3) The priority of the uses to which eggs, seed, juveniles, or brood stock are put. Use by cooperative projects shall be second in priority only to the needs of programs of the department or of other public agencies within the territorial boundaries of the state. Sales of eggs, seed, juveniles, or brood stock have a lower priority than use for cooperative projects. The rules must identify and implement appropriate protocols for brood stock handling, including the outplanting of adult fish, spawning, incubation, rearing, and release and establish a prioritized schedule for implementation of chapter 337, Laws of 2001, and shall include directives for allowing

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more hatchery salmon to spawn naturally in areas where progeny of hatchery fish have spawned, including the outplanting of adult fish, in order to increase the number of viable salmon eggs and restore healthy numbers of fish within the state.

(4) The procedure for the director to notify a volunteer group that the agreement for the project is being revoked for cause and the procedure for revocation. Revocation shall be documented in writing to the volunteer group. Cause for revocation may include: (a) The unavailability of adequate biological or financial resources; (b) the development of unacceptable biological or resource management conflicts; or (c) a violation of agreement provisions. Notice of cause to revoke for a violation of agreement provisions may specify a reasonable period of time within which the volunteer group must comply with any violated provisions of the agreement.

(5) An appropriate method of distributing among volunteer groups fish, bird, or animal food or other supplies available for the program. [2001 c 337 § 4; 2000 c 107 § 112; 1995 1st sp.s. c 2 § 42 (Referendum Bill No. 45, approved November 7, 1995); 1984 c 72 § 5. Formerly RCW 75.52.050.]

*Reviser's note: RCW 77.12.457 was repealed by 2001 c 253 § 62.

Additional notes found at www.leg.wa.gov

77.100.070 Agreements for cooperative projects—

Duration. Agreements under this chapter may be for up to five years, with the department attempting to maximize the duration of each cooperative agreement. The duration of the agreement should reflect the financial and volunteer commitment and the stability of the volunteer group as well as the department's expectation of resource availability and project contributions to the resource. [1984 c 72 § 6. Formerly RCW 75.52.060.]

77.100.080 Duties of volunteer group. (1) The volunteer group shall:

(a) Provide care and diligence in conducting the cooperative project; and

(b) Maintain accurately the required records of the project on forms provided by the department.

(2) The volunteer group shall acknowledge that fish and game reared in cooperative projects are public property and must be handled and released for the benefit of all citizens of the state. The fish and game are to remain public property until reduced to private ownership under rules of the commission. [2000 c 107 § 113; 1984 c 72 § 7. Formerly RCW 75.52.070.]

77.100.090 Application of chapter. This chapter applies to cooperative projects which were in existence on June 7, 1984, or which require no further funding. Implementation of this chapter for new projects requiring funding shall be to the extent that funds are available from the aquatic land enhancement account. [1984 c 72 § 8. Formerly RCW 75.52.080.]

77.100.100 Cedar river spawning channel. A salmon spawning channel shall be constructed on the Cedar river with the assistance and cooperation of the department. The department shall use existing personnel and the volunteer

fisheries enhancement program outlined under chapter 77.100 RCW to assist in the planning, construction, and operation of the spawning channel. [2000 c 107 § 114; 1993 sp.s. c 2 § 52; 1989 c 85 § 3. Formerly RCW 75.52.100.]

Legislative finding—1989 c 85: "The legislature recognizes that King county has a unique urban setting for a recreational fishery and that Lake Washington and the rivers flowing into it should be developed for greater salmon production. A Lake Washington fishery is accessible to fifty percent of the state's citizens by automobile in less than one hour. There has been extensive sockeye fishing success in Lake Washington, primarily from fish originating in the Cedar river. The legislature intends to enhance the Cedar river fishery by active state and local management and intends to maximize the Lake Washington sockeye salmon runs for recreational fishing for all of the citizens of the state. A sockeye enhancement program could produce two to three times the current numbers of returning adults. A sockeye enhancement project would increase the public's appreciation of our state's fisheries, would demonstrate the role of a clean environment, and would show that positive cooperation can exist between local and state government in planning and executing programs that directly serve the public. A spawning channel in the Cedar river has been identified as an excellent way to enhance the Lake Washington sockeye run. A public utility currently diverting water from the Cedar river for beneficial public use has expressed willingness to fund the planning, design, evaluation, construction, and operation of a spawning channel on the Cedar river." [1989 c 85 § 2.]

Additional notes found at www.leg.wa.gov

77.100.110 Cedar river spawning channel—Technical committee—Policy committee. The department shall chair a technical committee, which shall review the preparation of enhancement plans and construction designs for a Cedar river sockeye spawning channel. The technical committee shall consist of not more than eight members: One representative each from the department, national marine fisheries service, United States fish and wildlife service, and Muckleshoot Indian tribe; and four representatives from the public utility described in RCW 77.100.130. The technical committee will be guided by a policy committee, also to be chaired by the department, which shall consist of not more than six members: One representative from the department, one from the Muckleshoot Indian tribe, and one from either the national marine fisheries service or the United States fish and wildlife service; and three representatives from the public utility described in RCW 77.100.130. The policy committee shall oversee the operation and evaluation of the spawning channel. The policy committee will continue its oversight until the policy committee concludes that the channel is meeting the production goals specified in RCW 77.100.120. [2000 c 107 § 115; 1998 c 245 § 156; 1993 sp.s. c 2 § 53; 1989 c 85 § 4. Formerly RCW 75.52.110.]

Project designation—Legislative finding—Severability—1989 c 85: See notes following RCW 77.100.100.

Additional notes found at www.leg.wa.gov

77.100.120 Cedar river spawning channel—Specifications. The channel shall be designed to produce, at a minimum, fry comparable in quality to those produced in the Cedar river and equal in number to what could be produced naturally by the estimated two hundred sixty-two thousand adults that could have spawned upstream of the Landsburg diversion. Construction of the spawning channel shall commence no later than September 1, 1990. Initial construction size shall be adequate to produce fifty percent or more of the production goal specified in this section. [1989 c 85 § 5. Formerly RCW 75.52.120.]

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Project designation—Legislative finding—Severability—1989 c 85: See notes following RCW 77.100.100.

77.100.130 Cedar river spawning channel—Funding. The legislature recognizes that, if funding for planning, design, evaluation, construction, and operating expenses is provided by a public utility that diverts water for beneficial public use, and if the performance of the spawning channel meets the production goals described in RCW 77.100.120, the spawning channel project will serve, at a minimum, as compensation for lost sockeye salmon spawning habitat upstream of the Landsburg diversion. The amount of funding to be supplied by the utility will fully fund the total cost of planning, design, evaluation, and construction of the spawning channel. [2000 c 107 § 116; 1989 c 85 § 6. Formerly RCW 75.52.130.]

Project designation—Legislative finding—Severability—1989 c 85: See notes following RCW 77.100.100.

77.100.150 Cedar river spawning channel—Legislative declaration. The legislature hereby declares that the construction of the Cedar river sockeye spawning channel is in the best interests of the state of Washington. [1989 c 85 § 9. Formerly RCW 75.52.150.]

Project designation—Legislative finding—Severability—1989 c 85: See notes following RCW 77.100.100.

77.100.160 Cedar river spawning channel—Mitigation of water diversion projects. Should the requirements of RCW 77.100.100 through 77.100.160 not be met, the department shall seek immediate legal clarification of the steps which must be taken to fully mitigate water diversion projects on the Cedar river. [2000 c 107 § 118; 1993 sp.s. c 2 § 54; 1989 c 85 § 10. Formerly RCW 75.52.160.]

Project designation—Legislative finding—Severability—1989 c 85: See notes following RCW 77.100.100.

Additional notes found at www.leg.wa.gov

77.100.170 Fish hatcheries—Volunteer group projects. The manager of a state fish hatchery operated by the department of fish and wildlife may allow nonprofit volunteer groups affiliated with the hatchery to undertake projects to raise donations, gifts, and grants that enhance support for the hatchery or activities in the surrounding watershed that benefit the hatchery. The manager may provide agency personnel and services, if available, to assist in the projects and may allow the volunteer groups to conduct activities on the grounds of the hatchery.

The director of the department of fish and wildlife shall encourage and facilitate arrangements between hatchery managers and nonprofit volunteer groups and may establish guidelines for such arrangements. [1995 c 224 § 1. Formerly RCW 75.08.047.]

Chapter 77.105 RCW RECREATIONAL SALMON AND MARINE FISH ENHANCEMENT PROGRAM

Sections

- 77.105.005 Findings—Intent.
- 77.105.010 Program created—Coordinator.
- 77.105.020 Department responsibilities—Report to the legislature.

- 77.105.030 Planning and operation of programs—Assistance from nondepartmental sources.
- 77.105.050 Marine bottomfish species—Research, methods, and programs for artificial rearing.
- 77.105.140 Saltwater, combination fishing license—Disposition of fee.
- 77.105.150 Recreational fisheries enhancement account.
- 77.105.160 Puget Sound recreational fisheries enhancement oversight committee—Created—Duties—Report to the legislature.
- 77.105.170 Managing salmon to increase recreational angling opportunities in Puget Sound.

77.105.005 Findings—Intent. (1) The legislature finds the sheltered waters of Puget Sound (waters east of the Sekiu river) have historically provided the citizens of the state with the safest and most convenient access to productive marine recreational fishing.

(2) The legislature further recognizes the economic value in restoring and rebuilding the recreational fishing opportunities in Puget Sound for salmon and marine bottomfish, and that these opportunities have declined in the past two decades. Investments made in recreational fishing programs will repay the people of the state many times over in increased economic activity and in an improved quality of life.

(3) It is the intent of the legislature to improve recreational fishing opportunities in Puget Sound and Lake Washington from current levels and increase the economic benefits from the fishery, particularly recognizing the unique recreational experience provided by the winter salmon fishery. In addition, the legislature has determined that the number of angler trips expended in these waters is the measure of fishing opportunity. [2011 c 266 § 1; 1993 sp.s. c 2 § 82. Formerly RCW 75.54.005.]

77.105.010 Program created—Coordinator. There is created within the department of fish and wildlife the Puget Sound recreational salmon and marine fish enhancement program. The department of fish and wildlife shall identify a coordinator for the program who shall act as spokesperson for the program and shall:

(1) Coordinate the activities of the Puget Sound recreational salmon and marine fish enhancement program, including the Lake Washington salmon fishery; and

(2) Work within and outside of the department to achieve the goals stated in this chapter, including coordinating with the Puget Sound recreational fisheries enhancement oversight committee established in RCW 77.105.160. [2003 c 173 § 1; 1998 c 245 § 157; 1993 sp.s. c 2 § 83. Formerly RCW 75.54.010.]

77.105.020 Department responsibilities—Report to the legislature. (1) Consistent with available revenue, commission policies, tribal comanager agreements, and limitations of the endangered species act, the department, in consultation with the oversight committee created in RCW 77.105.160, shall adaptively manage the Puget Sound recreational salmon and marine fish enhancement program to maximize the benefits to the Puget Sound recreational fishery.

(2) The department has the following duties:

(a) The department shall utilize a program of hatchery-based salmon enhancement and solicit support from cooperative projects, regional enhancement groups, and other sup-

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porting organizations to improve recreational salmon fishing in Puget Sound.

(b) The department may conduct comprehensive research on resident and migratory salmon production opportunities on marine bottomfish production limitations, and on methods for artificial propagation of depleted marine bottomfish.

(c) The program must facilitate continued and improved recreational fishing opportunities in Puget Sound and Lake Washington as measured by increased angler trips of participation. The coordinator, as identified in RCW 77.105.010, shall assist the oversight committee with development of recommendations for outcome-based goals and objectives to assess the effectiveness of the program.

(d) The director shall meet with the oversight committee each year to review and approve these goals and objectives.

(e) The director and oversight committee shall report annually to the commission on the goals of the program and the effectiveness of the program in meeting those goals. Objectives include, but are not limited to, an increase in salmon and bottomfish angler trips.

(f) The department and the oversight committee shall seek to reach consensus regarding program activities and expenditures. The department shall provide the oversight committee with a written explanation when the department expends funds from the recreational fisheries enhancement account that differs substantially from oversight committee recommendations.

(g) Consistent with RCW 43.01.036, the department and oversight committee shall make a joint report to the legislature on the effectiveness of this program in biennial reports. Reports must include the goals and objectives of the previous biennium and a determination of whether the goals and objectives were met and an explanation if the department did not meet these specific objectives. [2011 c 266 § 2; 1993 sp.s. c 2 § 84. Formerly RCW 75.54.020.]

77.105.030 Planning and operation of programs—Assistance from nondepartmental sources. The department may seek recommendations from persons who are expert on the planning and operation of programs for enhancement of recreational fisheries. The department may use the expertise of the University of Washington school of aquatic and fishery sciences and the sea grant program to develop research and enhancement programs. [2011 c 266 § 3; 1993 sp.s. c 2 § 85. Formerly RCW 75.54.030.]

77.105.050 Marine bottomfish species—Research, methods, and programs for artificial rearing. The department may conduct research, develop methods, and implement programs for the artificial rearing and release of marine bottomfish species. Marine bottomfish species of importance in the recreational fishery are the primary emphasis. The department may use artificial habitats to restore and mitigate for degraded rockfish habitats and enhance recreational opportunities. [2011 c 266 § 5; 1993 sp.s. c 2 § 87. Formerly RCW 75.54.050.]

77.105.140 Saltwater, combination fishing license—Disposition of fee. As provided in RCW 77.32.440, a portion of each saltwater and combination fishing license fee

shall be deposited in the recreational fisheries enhancement account created in RCW 77.105.150. [2000 c 107 § 119; 1998 c 191 § 28; 1997 c 197 § 1; 1993 sp.s. c 2 § 97. Formerly RCW 75.54.140.]

Additional notes found at www.leg.wa.gov

77.105.150 Recreational fisheries enhancement account. The recreational fisheries enhancement account is created in the state treasury. All receipts from RCW 77.105.140 shall be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for recreational fisheries enhancement programs identified in this chapter. Under no circumstances may moneys from the account be used to backfill shortfalls in other state funding sources. [2003 c 173 § 3; 2000 c 107 § 120; 1993 sp.s. c 2 § 98. Formerly RCW 75.54.150.]

77.105.160 Puget Sound recreational fisheries enhancement oversight committee—Created—Duties—Report to the legislature. (1) The Puget Sound recreational fisheries enhancement oversight committee is created. The director shall appoint at least seven members representing sport fishing interests to the committee from a list of applicants, ensuring broad representation from the sport fishing community. Each member shall serve for a term of two years, and may be reappointed for subsequent two-year terms at the discretion of the director. Members of the committee serve without compensation.

(2) The Puget Sound recreational fisheries enhancement oversight committee has the following duties:

(a) Advise the department on all aspects of the Puget Sound recreational fisheries enhancement program;

(b) Develop recommendations, with assistance from the coordinator, for outcome-based goals and objectives to assess the effectiveness of the program;

(c) Meet with the director each year to review these goals and objectives;

(d) Report annually with the director to the commission on the goals of the program and the effectiveness of the program in meeting those goals;

(e) Review and provide guidance on the annual budget for the recreational fisheries enhancement account;

(f) Select a chair of the committee. It is the chair's duty to coordinate with the department on all issues related to the Puget Sound recreational fisheries enhancement program;

(g) Meet at least quarterly with the department's coordinator as identified in RCW 77.105.010 of the Puget Sound recreational fisheries enhancement program;

(h) Review and comment on program documents and proposed production of salmon and other species;

(i) Address other issues related to the purposes of the Puget Sound recreational fisheries enhancement program that are of interest to recreational fishers in Puget Sound; and

(j) Consistent with RCW 43.01.036, make a joint report with the department to the legislature each biennium on the status of the program. [2011 c 266 § 6; 2003 c 173 § 2.]

77.105.170 Managing salmon to increase recreational angling opportunities in Puget Sound. The department shall utilize artificial rearing of salmon to improve rec-

reational salmon fishing in Puget Sound. In managing salmon, the department shall seek to develop and implement methods that will increase recreational angling opportunities. These methods may include, but are not limited to, the following tools:

(1) Utilization of salmon artificial rearing techniques that contribute to the recreational fisheries in Puget Sound, especially winter salmon fishing.

(2) Optimum use of hatchery salmon through expanded recreational mark-selective fisheries.

(3) Utilization of recreational salmon and marine fish enhancement program funds for catch monitoring when required to increase recreational mark-selective fisheries.

(4) Consideration of new catch and release recreational fisheries utilizing gear and methods known to minimize hooking mortality.

(5) Providing public information regarding angling opportunities and fishing methods. [2011 c 266 § 4.]

Chapter 77.110 RCW

SALMON AND STEELHEAD TROUT— MANAGEMENT OF RESOURCES

Sections

77.110.010 Declaration.

77.110.020 Petition to congress.

77.110.030 Management of natural resources—State policy.

77.110.040 Declaration—Denial of rights based on race, sex, origin, or cultural heritage.

77.110.900 Transmittal of act to president and congress—1985 c 1.

77.110.010 Declaration. The people of the state of Washington declare that an emergency exists in the management of salmon and steelhead trout resources such that both are in great peril. An immediate resolution of this crisis is essential to perpetuating and enhancing these resources. [1985 c 1 § 1 (Initiative Measure No. 456, approved November 6, 1984). Formerly RCW 75.56.010.]

77.110.020 Petition to congress. The people of the state of Washington petition the United States Congress to immediately make the steelhead trout a national game fish protected under the Black Bass Act. [1985 c 1 § 2 (Initiative Measure No. 456, approved November 6, 1984). Formerly RCW 75.56.020.]

77.110.030 Management of natural resources—State policy. The people of the state of Washington declare that conservation, enhancement, and proper utilization of the state's natural resources, including but not limited to lands, waters, timber, fish, and game are responsibilities of the state of Washington and shall remain within the express domain of the state of Washington.

While fully respecting private property rights, all resources in the state's domain shall be managed by the state alone such that conservation, enhancement, and proper utilization are the primary considerations. No citizen shall be denied equal access to and use of any resource on the basis of race, sex, origin, cultural heritage, or by and through any treaty based upon the same. [1985 c 1 § 3 (Initiative Measure No. 456, approved November 6, 1984). Formerly RCW 75.56.030.]

77.110.040 Declaration—Denial of rights based on race, sex, origin, or cultural heritage. The people of the state of Washington declare that under the Indians Citizens Act of 1924, all Indians became citizens of the United States and subject to the Constitution and laws of the United States and state in which they reside. The people further declare that any special off-reservation legal rights or privileges of Indians established through treaties that are denied to other citizens were terminated by that 1924 enactment, and any denial of rights to any citizen based upon race, sex, origin, cultural heritage, or by and through any treaty based upon the same is unconstitutional.

No rights, privileges, or immunities shall be denied to any citizen upon the basis of race, sex, origin, cultural heritage, or by and through any treaty based upon the same. [1985 c 1 § 4 (Initiative Measure No. 456, approved November 6, 1984). Formerly RCW 75.56.040.]

77.110.900 Transmittal of act to president and congress—1985 c 1. The secretary of state shall transmit copies of this act to the president of the United States senate, the speaker of the United States house of representatives, and each member of congress. [1985 c 1 § 5 (Initiative Measure No. 456, approved November 6, 1984). Formerly RCW 75.56.900.]

Chapter 77.115 RCW

AQUACULTURE DISEASE CONTROL

Sections

- 77.115.010 Disease inspection and control for aquatic farmers—Development of program—Elements—Rules—Violations.
 77.115.030 Consultation required—Agreements for diagnostic field services authorized—Roster of biologists.
 77.115.040 Registration of aquatic farmers—Fee.

77.115.010 Disease inspection and control for aquatic farmers—Development of program—Elements—Rules—Violations. (1) The director of agriculture and the director shall jointly develop a program of disease inspection and control for aquatic farmers as defined in RCW 15.85.020. The program shall be administered by the department under rules established under this section. The purpose of the program is to protect the aquaculture industry and wildstock fisheries from a loss of productivity due to aquatic diseases or maladies. As used in this section "diseases" means, in addition to its ordinary meaning, infestations of parasites or pests. The disease program may include, but is not limited to, the following elements:

- (a) Disease diagnosis;
- (b) Import and transfer requirements;
- (c) Provision for certification of stocks;
- (d) Classification of diseases by severity;
- (e) Provision for treatment of selected high-risk diseases;
- (f) Provision for containment and eradication of high-risk diseases;
- (g) Provision for destruction of diseased cultured aquatic products;
- (h) Provision for quarantine of diseased cultured aquatic products;
- (i) Provision for coordination with state and federal agencies;

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(j) Provision for development of preventative or control measures;

(k) Provision for cooperative consultation service to aquatic farmers; and

(1) Provision for disease history records.

(2) The commission shall adopt rules implementing this section. However, such rules shall have the prior approval of the director of agriculture and shall provide therein that the director of agriculture has provided such approval. The director of agriculture or the director's designee shall attend the rule-making hearings conducted under chapter 34.05 RCW and shall assist in conducting those hearings. The authorities granted the department by these rules and by RCW 77.12.047 (1)(g), 77.60.060, 77.60.080, 77.65.210, 77.115.030, and 77.115.040 constitute the only authorities of the department to regulate private sector cultured aquatic products and aquatic farmers as defined in RCW 15.85.020. Except as provided in subsection (3) of this section, no action may be taken against any person to enforce these rules unless the department has first provided the person an opportunity for a hearing. In such a case, if the hearing is requested, no enforcement action may be taken before the conclusion of that hearing.

(3) The rules adopted under this section shall specify the emergency enforcement actions that may be taken by the department, and the circumstances under which they may be taken, without first providing the affected party with an opportunity for a hearing. Neither the provisions of this subsection nor the provisions of subsection (2) of this section shall preclude the department from requesting the initiation of criminal proceedings for violations of the disease inspection and control rules.

(4) A person shall not violate the rules adopted under subsection (2) or (3) of this section or violate RCW 77.115.040.

(5) In administering the program established under this section, the department shall use the services of a pathologist licensed to practice veterinary medicine.

(6) The director in administering the program shall not place constraints on or take enforcement actions in respect to the aquaculture industry that are more rigorous than those placed on the department or other fish-rearing entities.

(7) The department must implement this section consistent with RCW 77.125.050. [2018 c 179 § 6; 2000 c 107 § 122; 1998 c 190 § 110; 1993 sp.s. c 2 § 55; 1988 c 36 § 43; 1985 c 457 § 8. Formerly RCW 75.58.010.]

Additional notes found at www.leg.wa.gov

77.115.030 Consultation required—Agreements for diagnostic field services authorized—Roster of biologists.

(1) The director shall consult regarding the disease inspection and control program established under RCW 77.115.010 with federal agencies and Indian tribes to assure protection of state, federal, and tribal aquatic resources and to protect private sector cultured aquatic products from disease that could originate from waters or facilities managed by those agencies.

(2) With regard to the program, the director may enter into contracts or interagency agreements for diagnostic field services with government agencies and institutions of higher education and private industry.

(3) The director shall provide for the creation and distribution of a roster of biologists having a specialty in the diagnosis or treatment of diseases of fish or shellfish. The director shall adopt rules specifying the qualifications which a person must have in order to be placed on the roster.

(4) The department must implement this section consistent with RCW 77.125.050. [2018 c 179 § 7; 2000 c 107 § 124; 1993 sp.s. c 2 § 57; 1988 c 36 § 44; 1985 c 457 § 10. Formerly RCW 75.58.030.]

Additional notes found at www.leg.wa.gov

77.115.040 Registration of aquatic farmers—Fee. (1)

All aquatic farmers, as defined in RCW 15.85.020, shall register with the department. The application fee is one hundred five dollars. The director shall assign each aquatic farm a unique registration number and develop and maintain in an electronic database a registration list of all aquaculture farms. The department shall establish procedures to annually update the aquatic farmer information contained in the registration list. The department shall coordinate with the department of health using shellfish growing area certification data when updating the registration list.

(2) Registered aquaculture farms shall provide the department with the following information:

- (a) The name of the aquatic farmer;
 - (b) The address of the aquatic farmer;
 - (c) Contact information such as telephone, fax, web site, and email address, if available;
 - (d) The number and location of acres under cultivation, including a map displaying the location of the cultivated acres;
 - (e) The name of the landowner of the property being cultivated or otherwise used in the aquatic farming operation;
 - (f) The private sector cultured aquatic product being propagated, farmed, or cultivated; and
 - (g) Statistical production data.
- (3) The state veterinarian shall be provided with registration and statistical data by the department.
- (4) The department must implement this section consistent with RCW 77.125.050. [2018 c 179 § 8; 2011 c 339 § 37; 2007 c 216 § 6; 1993 sp.s. c 2 § 58; 1988 c 36 § 45; 1985 c 457 § 11. Formerly RCW 75.58.040.]

Effective date—2011 c 339: See note following RCW 43.84.092.

Additional notes found at www.leg.wa.gov

Chapter 77.120 RCW

BALLAST WATER MANAGEMENT

Sections

77.120.005	Findings.
77.120.010	Definitions.
77.120.020	Application of chapter.
77.120.030	Authorized ballast water discharge—Adoption of standards by rule.
77.120.040	Reporting and sampling requirements.
77.120.050	Pilot project—Private sector ballast water treatment operation.
77.120.070	Violation of chapter—Penalties—Rules.
77.120.100	Department may assess fee for exemptions—Rules.
77.120.110	Ballast water and biofouling management account.
77.120.120	Special operating authorization—Rules.
77.120.130	Department's authority to enter into partnerships, contracts, or other agreements.
77.120.140	Biofouling—Agency rule-making authority.

77.120.005 Findings. The legislature finds that some nonindigenous species have the potential to cause economic and environmental damage to the state and that current efforts to stop the introduction of nonindigenous species from shipping vessels do not adequately reduce the risk of new introductions into Washington waters.

The legislature recognizes the international ramifications and the rapidly changing dimensions of this issue, the lack of currently available treatment technologies, and the difficulty that any one state has in either legally or practically managing this issue. Recognizing the possible limits of state jurisdiction over international issues, the state declares its support for the international maritime organization and United States coast guard efforts, and the state intends to complement, to the extent its powers allow it, the United States coast guard's ballast water management program. [2004 c 227 § 1; 2000 c 108 § 1.]

77.120.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Ballast tank" means any tank or hold on a vessel used for carrying ballast water, whether or not the tank or hold was designed for that purpose.

(2) "Ballast water" means any water and matter taken on board a vessel to control or maintain trim, draft, stability, or stresses of the vessel, without regard to the manner in which it is carried.

(3) "Biofouling" means the accumulation of aquatic organisms on a vessel such as attached or associated mobile microorganisms, plants, and animals on surfaces and structures immersed in or exposed to the aquatic environment.

(4) "Empty/refill exchange" means to pump out, until the tank is empty or as close to empty as the master or operator determines is safe, the ballast water taken on in ports, estuarine, or territorial waters, and then refilling the tank with open sea waters.

(5) "Exchange" means to replace the water in a ballast tank using either flow through exchange, empty/refill exchange, or other exchange methodology recommended or required by the United States coast guard.

(6) "Flow through exchange" means to flush out ballast water by pumping in midocean water at the bottom of the tank and continuously overflowing the tank from the top until three full volumes of water have been changed to minimize the number of original organisms remaining in the tank.

(7) "Nonindigenous species" means any species or other viable biological material that enters an ecosystem beyond its natural range.

(8) "Open sea exchange" means an exchange that occurs fifty or more nautical miles offshore. If the United States coast guard requires a vessel to conduct an exchange further offshore, then that distance is the required distance for purposes of compliance with this chapter.

(9) "Recognized marine trade association" means those trade associations in Washington state that promote improved ballast water management practices by educating their members on the provisions of this chapter, participating in regional ballast water coordination through the Pacific ballast water group, assisting the department in the collection of ballast water exchange forms, and the monitoring of ballast

water. This includes members of the Puget Sound marine committee for Puget Sound and the Columbia river steamship operators association for the Columbia river.

(10) "Sediments" means any matter settled out of ballast water within a vessel.

(11) "Untreated ballast water" includes exchanged or unexchanged ballast water that has not undergone treatment.

(12) "Vessel" means a ship, boat, barge, or other floating craft of three hundred gross tons or more, United States and foreign, carrying, or capable of carrying, ballast water into the coastal waters of the state after operating outside of the coastal waters of the state, except those vessels described in RCW 77.120.020.

(13) "Voyage" means any transit by a vessel destined for any Washington port.

(14) "Waters of the state" means any surface waters, including internal waters contiguous to state shorelines within the boundaries of the state. [2017 3rd sp.s. c 17 § 307; 2007 c 350 § 8; 2000 c 108 § 2.]

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

77.120.020 Application of chapter. (1) This chapter applies to all vessels transiting into the waters of the state from a voyage, except:

(a) A vessel of the United States department of defense or United States coast guard subject to the requirements of section 1103 of the national invasive species act of 1996, or any vessel of the armed forces, as defined in 33 U.S.C. Sec. 1322(a)(14), that is subject to the uniform national discharge standards for vessels of the armed forces under 33 U.S.C. Sec. 1322(n);

(b) A vessel that discharges ballast water or sediments only at the location where the ballast water or sediments originated, if the ballast water or sediments do not mix with ballast water or sediments from areas other than open sea waters; and

(c) A vessel in innocent passage, merely traversing the territorial sea of the United States and not entering or departing a United States port, or not navigating the internal waters of the United States, and that does not discharge ballast water into the waters of the state.

(2) This chapter does not authorize the discharge of oil or noxious liquid substances in a manner prohibited by state, federal, or international laws or regulations. Ballast water containing oil, noxious liquid substances, or any other pollutant shall be discharged in accordance with the applicable requirements.

(3) The master or operator in charge of a vessel is responsible for the safety of the vessel, its crew, and its passengers. Nothing in this chapter relieves the master or operator in charge of a vessel of the responsibility for ensuring the safety and stability of the vessel or the safety of the crew and passengers. [2007 c 350 § 9; 2000 c 108 § 3.]

77.120.030 Authorized ballast water discharge—Adoption of standards by rule. (1) The owner or operator in charge of any vessel covered by this chapter is required to ensure that the vessel under their ownership or control does not discharge ballast water into the waters of the state except as authorized by this section.

(2) Discharge of ballast water into waters of the state is authorized only if there has been an open sea exchange, or if the vessel has treated its ballast water, to meet standards set by the department consistent with applicable state and federal laws.

(3) The department, in consultation with a collaborative forum, shall adopt by rule standards for the discharge of ballast water into the waters of the state and their implementation timelines. The standards are intended to ensure that the discharge of ballast water poses minimal risk of introducing nonindigenous species. In developing these standards, the department shall consider the extent to which the requirement is technologically and practically feasible. Where practical and appropriate, the standards must be compatible with standards set by the United States coast guard, the federal clean water act (33 U.S.C. Sec. 1251-1387), or the international maritime organization.

(4) The master, operator, or person in charge of a vessel is not required to conduct an open sea exchange or treatment of ballast water if the master, operator, or person in charge of a vessel determines that the operation would threaten the safety of the vessel, its crew, or its passengers, because of adverse weather, vessel design limitations, equipment failure, or any other extraordinary conditions. A master, operator, or person in charge of a vessel who relies on this exemption must file documentation defined by the department, subject to: (a) Payment of a fee not to exceed five thousand dollars; (b) discharging only the minimal amount of ballast water operationally necessary; (c) ensuring that ballast water records accurately reflect any reasons for not complying with the mandatory requirements; and (d) any other requirements identified by the department by rule as provided in subsections (3) and (6) of this section.

(5) For treatment technologies requiring shipyard modification, the department may enter into a compliance plan with the vessel owner. The compliance plan must include a timeline consistent with drydock and shipyard schedules for completion of the modification. The department shall adopt rules for compliance plans under this subsection.

(6) For an exemption claimed in subsection (4) of this section, the department shall adopt rules for defining exemption conditions, requirements, compliance plans, or alternative ballast water management strategies to meet the intent of this section.

(7) The department shall make every effort to align ballast water standards with adopted international and federal standards while ensuring that the goals of this chapter are met.

(8) The requirements of this section do not apply to a vessel discharging ballast water or sediments that originated solely within the waters of Washington, the Columbia river system, or the internal waters of British Columbia south of latitude fifty degrees north, including the waters of the Straits of Georgia and Juan de Fuca.

(9) Open sea exchange is an exchange that occurs fifty or more nautical miles offshore. If the United States coast guard requires a vessel to conduct an exchange further offshore, then that distance is the required distance for purposes of compliance with this chapter. [2009 c 333 § 26; 2007 c 350 § 10; 2004 c 227 § 3; 2002 c 282 § 2; 2000 c 108 § 4.]

77.120.040 Reporting and sampling requirements.

The owner or operator in charge of any vessel covered by this chapter is required to ensure that the vessel under their ownership or control complies with the reporting and sampling requirements of this section.

(1) Vessels covered by this chapter must report ballast water management information to the department using ballast water management forms that are acceptable to the United States coast guard. The frequency, manner, and form of such reporting shall be established by the department by rule. Any vessel may rely on a recognized marine trade association to collect and forward this information to the department.

(2) In order to monitor the effectiveness of national and international efforts to prevent the introduction of nonindigenous species, all vessels covered by this chapter must submit nonindigenous species ballast water monitoring data. The monitoring, sampling, testing protocols, and methods of identifying nonindigenous species in ballast water shall be determined by the department by rule. A vessel covered by this chapter may contract with a recognized marine trade association to randomly sample vessels within that association's membership, and provide data to the department.

(3) Vessels that do not belong to a recognized marine trade association must submit individual ballast tank sample data to the department for each voyage.

(4) All data submitted to the department under subsection (2) of this section shall be consistent with sampling and testing protocols as adopted by the department by rule.

(5) The department shall adopt rules to implement this section. The rules and recommendations shall be developed in consultation with advisors from regulated industries and the potentially affected parties, including but not limited to shipping interests, ports, shellfish growers, fisheries, environmental interests, interested citizens who have knowledge of the issues, and appropriate governmental representatives including the United States coast guard. In recognition of the need to have a coordinated response to ballast water management for the Columbia river system, the department must consider rules adopted by the state of Oregon when adopting rules under this section for ballast water management in the navigable waters of the Columbia river system.

(a) The department shall set standards for the discharge of treated ballast water into the waters of the state. The rules are intended to ensure that the discharge of treated ballast water poses minimal risk of introducing nonindigenous species. In developing this standard, the department shall consider the extent to which the requirement is technologically and practically feasible. Where practical and appropriate, the standards shall be compatible with standards set by the United States coast guard and shall be developed in consultation with federal and state agencies to ensure consistency with the federal clean water act, 33 U.S.C. Sec. 1251-1387.

(b) The department shall adopt ballast water sampling and testing protocols for monitoring the biological components of ballast water that may be discharged into the waters of the state under this chapter. Monitoring data is intended to assist the department in evaluating the risk of new, nonindigenous species introductions from the discharge of ballast water, and to evaluate the accuracy of ballast water exchange practices. The sampling and testing protocols must consist of

cost-effective, scientifically verifiable methods that, to the extent practical and without compromising the purposes of this chapter, utilize easily measured indices, such as salinity, or check for species that indicate the potential presence of nonindigenous species or pathogenic species. The department shall specify appropriate quality assurance and quality control for the sampling and testing protocols. [2002 c 282 § 3; 2000 c 108 § 5.]

77.120.050 Pilot project—Private sector ballast water treatment operation. The shipping vessel industry, the public ports, and the department shall promote the creation of a pilot project to establish a private sector ballast water treatment operation that is capable of servicing vessels at all Washington ports. Federal and state agencies and private industries shall be invited to participate. The project will develop equipment or methods to treat ballast water and establish operational methods that do not increase the cost of ballast water treatment at smaller ports. The legislature intends that the cost of treatment required by this chapter is substantially equivalent among large and small ports in Washington. [2000 c 108 § 6.]

77.120.070 Violation of chapter—Penalties—Rules.

(1) The department may establish by rule schedules for any penalty allowed in this chapter. The schedules may provide for the incremental assessment of a penalty based on criteria established by rule.

(2) The director or the director's designee may impose a civil penalty or warning for a violation of the requirements of this chapter on the owner or operator in charge of a vessel who fails to comply with the requirements imposed under this chapter. The penalty shall not exceed twenty-seven thousand five hundred dollars for each day of a continuing violation. In determining the amount of a civil penalty, the department shall set standards by rule that consider if the violation was intentional, negligent, or without any fault, and shall consider the quality and nature of risks created by the violation. The owner or operator subject to such a penalty may contest the determination by requesting an adjudicative proceeding within twenty days. Any determination not timely contested is final and may be reduced to a judgment enforceable in any court with jurisdiction. If the department prevails using any judicial process to collect a penalty under this section, the department shall also be awarded its costs and reasonable attorneys' fees.

(3) The department, in cooperation with the United States coast guard, may enforce the requirements of this chapter. [2017 3rd sp.s. c 17 § 304; 2007 c 350 § 12; 2000 c 108 § 8.]

77.120.100 Department may assess fee for exemptions—Rules. The department may assess a fee for any exemptions allowed under this chapter. Such a fee may not exceed five thousand dollars. The department may establish by rule schedules for any fee allowed in this chapter. The schedules may provide for the incremental assessment of a penalty based on criteria established by rule. [2007 c 350 § 13.]

77.120.110 Ballast water and biofouling management account. (1) The ballast water and biofouling management account is created in the state treasury. All receipts from legislative appropriations, gifts, grants, donations, penalties, and fees received under this chapter must be deposited into the account.

(2) Expenditures from the account may be used only to carry out the purposes of this chapter. However, penalties may not be used for the salaries of permanent department employees.

(3) Moneys in the account may be spent only after appropriation. [2017 3rd sp.s. c 17 § 106; 2009 c 333 § 27; 2007 c 350 § 14.]

77.120.120 Special operating authorization—Rules. The department may issue a special operating authorization for passenger vessels conducting or assisting in research and testing activities to determine the presence of invasive species in ballast water collected in the waters of southeast Alaska north of latitude fifty-four degrees thirty minutes north to sixty-one degrees ten minutes north, extending to longitude one hundred forty-nine degrees thirty minutes west. The department may adopt rules for defining special operating authorization conditions, requirements, limitations, and fees as necessary to implement this section, consistent with the intent of this chapter. [2009 c 333 § 28; 2007 c 350 § 15.]

77.120.130 Department's authority to enter into partnerships, contracts, or other agreements. The department may enter into partnerships, contracts, or any other form of agreements with other entities to carry out the intent of this chapter. The department shall ensure that any such entity is registered and licensed to do business in Washington. All agreements must be consistent with existing state laws, agency rules, state water quality standards, and collective bargaining agreements. [2017 3rd sp.s. c 17 § 204.]

77.120.140 Biofouling—Agency rule-making authority. (1) The owner or operator of a vessel covered by this chapter is required to ensure that the vessel under their ownership or control does not release biofouling into waters of the state except as authorized by this section.

(2) The department may adopt by rule standards and requirements governing the release of biofouling on vessels arriving or moored at a Washington port.

(3) The department shall adopt rules under subsection (2) of this section for adoption in consultation with a collaborative forum with advisors from regulated industries and the potentially affected parties including shipping interests, ports, shellfish growers, fisheries, environmental interests, interested citizens who have knowledge of the issues, and appropriate governmental representatives including the United States coast guard and the United States environmental protection agency. The rules must:

(a) Ensure that biofouling management poses minimal risk of release of nonindigenous species;

(b) Be based on the best available technology that is economically achievable; and

(c) Where practical and appropriate, be compatible with standards and requirements set by the United States coast

guard, the United States environmental protection agency, or the international maritime organization. [2017 3rd sp.s. c 17 § 301.]

Chapter 77.125 RCW

MARINE FINFISH AQUACULTURE PROGRAMS

Sections

77.125.010	Accidental Atlantic salmon release—Prevention measures.
77.125.020	Marine aquatic farming location—Defined.
77.125.030	Development of proposed rules—Elements.
77.125.040	Rules adoption.
77.125.050	Activities associated with the use of marine net pens for non-native marine finfish aquaculture.
77.125.060	Facility operator must hire marine engineering firm to conduct inspections.

77.125.010 Accidental Atlantic salmon release—Prevention measures. Marine aquaculture net pen facilities in Washington state have accidentally released Atlantic salmon into Puget Sound. It is necessary to minimize escapes through the implementation of statewide prevention measures. [2001 c 86 § 1.]

77.125.020 Marine aquatic farming location—Defined. For the purposes of this chapter, "marine aquatic farming location" means a complete complex that may be composed of various marine enclosures, net pens, or other rearing vessels, food handling facilities, or other facilities related to the rearing of Atlantic salmon or other finfish in marine waters. A marine aquatic farming location is distinguished from the individual facilities that collectively compose the location. [2001 c 86 § 2.]

77.125.030 Development of proposed rules—Elements. (1) The director, in cooperation with the marine finfish aquatic farmers, shall develop proposed rules for the implementation, administration, and enforcement of marine finfish aquaculture programs. In developing such proposed rules, the director must use a negotiated rule-making process pursuant to RCW 34.05.310. The proposed rules shall include the following elements:

(a) Provisions for the prevention of escapes of cultured marine finfish aquaculture products from enclosures, net pens, or other rearing vessels;

(b) Provisions for the development and implementation of management plans to facilitate the most rapid recapture of live marine finfish aquaculture products that have escaped from enclosures, net pens, or other rearing vessels, and to prevent the spread or permanent escape of these products;

(c) Provisions for the development of management practices based on the latest available science, to include:

(i) Procedures for inspections of marine aquatic farming locations on a regular basis to determine conformity with law and the rules of the department relating to the operation of marine aquatic farming locations. The rules must provide for the recovery of actual costs incurred for required inspections, monitoring, and compliance testing by the department; and

(ii) Operating procedures at marine aquatic farming locations to prevent the escape of marine finfish, to include the use of net antifoulants;

(d) Provisions for the eradication of those cultured marine finfish aquaculture products that have escaped from

enclosures, net pens, or other rearing vessels found spawning in state waters;

(e) Provisions for the determination of appropriate species, stocks, and races of marine finfish aquaculture products allowed to be cultured at specific locations and sites;

(f) Provisions for the development of an Atlantic salmon watch program similar to the one in operation in British Columbia, Canada. The program must provide for the monitoring of escapes of Atlantic salmon from marine aquatic farming locations, monitor the occurrence of naturally produced Atlantic salmon, determine the impact of Atlantic salmon on naturally produced and cultured finfish stocks, provide a focal point for consolidation of scientific information, and provide a forum for interaction and education of the public; and

(g) Provisions for the development of an education program to assist marine aquatic farmers so that they operate in an environmentally sound manner.

(2) The department must implement this section consistent with RCW 77.125.050. [2020 c 216 § 1; 2018 c 179 § 9; 2001 c 86 § 3.]

77.125.040 Rules adoption. Rules to implement this chapter shall be adopted no sooner than thirty days following the end of the 2002 regular legislative session. [2017 3rd sp.s. c 25 § 36; 2001 c 86 § 4.]

77.125.050 Activities associated with the use of marine net pens for nonnative marine finfish aquaculture. (1) The department may authorize or permit activities associated with the use of marine net pens for nonnative marine finfish aquaculture only if these activities are performed under a lease of state-owned aquatic lands in effect on June 7, 2018. The department may not authorize or permit any of these activities or operations after the expiration date of the relevant lease of state-owned aquatic lands in effect on June 7, 2018.

(2) For purposes of this section, "state-owned aquatic lands" has the same meaning as defined in RCW 79.105.060. [2018 c 179 § 3.]

77.125.060 Facility operator must hire marine engineering firm to conduct inspections. (1) For marine finfish aquaculture, the facility operator must hire, at their own expense, a marine engineering firm approved by the department to conduct inspections. Inspections must occur approximately every two years, when net pens are fallow, and must include topside and mooring assessments related to escape-potential, structural integrity, permit compliance, and operations.

(2) Any net pen facility must be found to be in good working order to receive fish.

(3) If the facility is found to be in imminent danger of collapse or release of finfish, the director may require the operator to remove fish or deny a fish transfer permit. [2018 c 179 § 12.]

Chapter 77.130 RCW

DISPOSITION OF UNCLAIMED PROPERTY

Sections

77.130.010	Unclaimed personal property—Disposition—Firearms.
77.130.020	Notice of sale.
77.130.030	Use of money from sales under this chapter.
77.130.040	Property owner entitled to receive money.
77.130.050	Application of chapters 63.24 and 63.29 RCW.
77.130.060	Donation of unclaimed personal property.

77.130.010 Unclaimed personal property—Disposition—Firearms. Whenever any personal property comes into the possession of the officers of the department in connection with the official performance of their duties and the personal property remains unclaimed or not taken away for a period of sixty days from the date of written notice to the owner thereof, if known, which notice shall inform the owner of the disposition that may be made of the property under this section and the time that the owner has to claim the property and in all other cases for a period of sixty days from the time the property came into the possession of the department, unless the property has been held as evidence in any court, then, in that event, after sixty days from date when the case has been finally disposed of and the property released as evidence by order of the court, the department may:

(1) At any time thereafter sell the personal property at public auction to the highest and best bidder for cash in the manner hereinafter provided;

(2) Retain the property for the use of the department subject to giving notice in the manner prescribed in RCW 63.35.030 and the right of the owner, or the owner's legal representative, to reclaim the property within one year after receipt of notice, without compensation for ordinary wear and tear if, in the opinion of the director, the property consists of firearms or other items specifically usable in law enforcement work. At the end of each calendar year during which there has been such a retention, the department shall provide the office of financial management and retain for public inspection a list of such retained items and an estimation of each item's replacement value;

(3) Destroy an item of personal property at the discretion of the director if the director determines that the following circumstances have occurred:

(a) The property has no substantial commercial value or the probable cost of sale exceeds the value of the property;

(b) The item has been unclaimed by any person after notice procedures have been met, as prescribed in this section; and

(c) The director has determined that the item is illegal to possess or sell or unsafe and unable to be made safe for use by any member of the general public;

(4) If the item is not unsafe or illegal to possess or sell, such item, after satisfying the notice requirements as prescribed in this section may be offered by the director to bona fide dealers, in trade for law enforcement equipment, which equipment must be treated as retained property for the purpose of annual listing requirements of subsection (2) of this section; or

(5) At the end of one year, any unclaimed firearm must be disposed of pursuant to RCW 9.41.098(2). Any other item that is not unsafe or illegal to possess or sell, but has been, or

may be used, in the judgment of the director, in a manner that is illegal, may be destroyed. [2009 c 333 § 44.]

77.130.020 Notice of sale. Before the personal property shall be sold, a notice of such a sale fixing the time and place thereof which shall be at a suitable place, which will be noted in the advertisement for sale, and containing a description of the property to be sold must be published at least once in a newspaper of general circulation in the county in which the property is to be sold at least ten days prior to the date fixed for the auction. The notice must be signed by the director. If the owner fails to reclaim the property prior to the time fixed for the sale in such a notice, the director shall conduct the sale and sell the property described in the notice at public auction to the highest and best bidder for cash, and upon payment of the amount of the bid shall deliver the property to the bidder. [2009 c 333 § 45.]

77.130.030 Use of money from sales under this chapter. The moneys arising from sales under the provisions of this chapter must be first applied to the payment of the costs and expenses of the sale and then to the payment of lawful charges and expenses for the keep of the personal property and the balance, if any, must be forwarded to the state treasurer to be deposited into the fish and wildlife enforcement reward account under RCW 77.15.425. [2009 c 333 § 46.]

77.130.040 Property owner entitled to receive money. If the owner of the personal property so sold, or the owner's legal representative, shall, at any time within three years after the money has been deposited in the fish and wildlife enforcement reward account, furnish satisfactory evidence to the state treasurer of the ownership of the personal property, the owner or the owner's legal representative is entitled to receive from the fish and wildlife enforcement reward account the amount so deposited, with interest. [2009 c 333 § 47.]

77.130.050 Application of chapters 63.24 and 63.29 RCW. (1) Chapter 63.24 RCW, unclaimed property in hands of bailee, does not apply to personal property in the possession of the department.

(2) The uniform unclaimed property act, chapter 63.29 RCW, does not apply to personal property in the possession of the department. [2009 c 333 § 48.]

77.130.060 Donation of unclaimed personal property. In addition to any other method of disposition of unclaimed property provided under this chapter, the department may donate unclaimed personal property to nonprofit charitable organizations. A nonprofit charitable organization receiving personal property donated under this section must use the property, or its proceeds, to benefit needy persons. The charitable organization must qualify for tax-exempt status under 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue code. [2009 c 333 § 49.]

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Chapter 77.135 RCW INVASIVE SPECIES

Sections

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77.135.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Aquatic conveyance" means transportable personal property having the potential to move an aquatic invasive species from one aquatic environment to another. Aquatic conveyances include but are not limited to vessels and associated equipment, float planes, construction equipment, fish tanker trucks, hydroelectric and irrigation equipment, personal fishing and hunting gear, and materials used for aquatic habitat mitigation or restoration.

(2) "Aquatic invasive species" means an invasive species of the animal kingdom with a life cycle that is at least partly dependent upon fresh, brackish, or marine waters. Examples include nutria, waterfowl, amphibians, fish, and shellfish.

(3) "Aquatic plant" means a native or nonnative emergent, submersed, partially submersed, free-floating, or floating-leaved plant species that is dependent upon fresh, brackish, or marine water ecosystems and includes all stages of development and parts.

(4) "Certificate of inspection" means a department-approved document that declares, to the extent technically or measurably possible, that an aquatic conveyance does not carry or contain an invasive species. Certification may be in the form of a decal, label, rubber stamp imprint, tag, permit, locking seal, or written statement.

(5) "Clean and drain" means to remove the following from areas on or within an aquatic conveyance to the extent technically and measurably possible:

(a) Visible native and nonnative aquatic animals, plants, or other organisms; and

(b) Raw water.

(6) "Commercial vessel" means a management category of aquatic conveyances:

(a) Required to have valid marine documentation as a vessel of the United States or similar required documentation for a country other than the United States; and

(b) Not subject to vessel registration requirements under chapter 88.02 RCW or ballast water requirements under chapter 77.120 RCW.

(7) "Cryptogenic species" means a species that scientists cannot commonly agree are native or nonnative or are part of the animal kingdom.

(8) "Decontaminate" means, to the extent technically and measurably possible, the application of a treatment to kill, destroy, remove, or otherwise eliminate all known or suspected invasive species carried on or contained within an aquatic conveyance or structural property by use of physical, chemical, or other methods. Decontamination treatments may include drying an aquatic conveyance for a time sufficient to kill aquatic invasive species through desiccation.

(9) "Detect" means the verification of invasive species' presence as defined by the department.

(10) "Eradicate" means, to the extent technically and measurably possible, to kill, destroy, remove, or otherwise eliminate an invasive species from a water body or property using physical, chemical, or other methods.

(11) "Infested site management" means management actions as provided under RCW 77.135.070 that may include long-term actions to contain, control, or eradicate a prohibited species.

(12) "Introduce" means to intentionally or unintentionally release, place, or allow the escape, dissemination, or establishment of an invasive species on or into a water body or property as a result of human activity or a failure to act.

(13) "Invasive species" means nonnative species of the animal kingdom that are not naturally occurring in Washington for purposes of breeding, resting, or foraging, and that pose an invasive risk of harming or threatening the state's environmental, economic, or human resources. Invasive species include all stages of species development and body parts. They may also include genetically modified or cryptogenic species.

(14) "Invasive species council" means the Washington invasive species council established in RCW 79A.25.310 or a similar collaborative state agency forum. The term includes the council and all of its officers, employees, agents, and contractors.

(15) "Mandatory check station" means a location where a person transporting an aquatic conveyance must stop and allow the conveyance to be inspected for aquatic invasive species.

(16) "Possess" means to have authority over the use of an invasive species or use of an aquatic conveyance that may carry or contain an invasive species. For the purposes of this subsection, "authority over" includes the ability to intentionally or unintentionally hold, import, export, transport, purchase, sell, barter, distribute, or propagate an invasive species.

(17) "Prohibited species" means a classification category of nonnative species as provided in RCW 77.135.030.

(18) "Property" means both real and personal property.

(19) "Quarantine declaration" means a management action as provided under RCW 77.135.050 involving the prohibition or conditioning of the movement of aquatic conveyances and waters from a place or an area that is likely to contain a prohibited species.

(20) "Rapid response" means expedited management actions as provided under RCW 77.135.060 triggered when invasive species are detected, for the time-sensitive purpose of containing or eradicating the species before it spreads or becomes further established.

(21) "Raw water" means water from a water body and held on or within property. "Raw water" does not include water from precipitation that is captured in a conveyance, structure, or depression that is not otherwise intended to function as a water body, or water from a potable water supply system, unless the water contains visible aquatic organisms.

(22) "Registered vessel" means a management category of aquatic conveyances required to register as vessels under RCW 88.02.550 or similar requirements for a state other than Washington or a country other than the United States.

(23) "Regulated species" means a classification category of nonnative species as provided in RCW 77.135.030.

(24) "Seaplane" means a management category of aquatic conveyances capable of landing on or taking off from water and required to register as an aircraft under RCW 47.68.250 or similar registration in a state other than Washington or a country other than the United States.

(25) "Small vessel" means a management category of aquatic conveyances including every description of vessel on the water used or capable of being used as a means of transportation on the water, except:

(a) Inner tubes, air mattresses, sailboards, and small rafts or flotation devices or toys customarily used by swimmers;

(b) Vessels meeting registration requirements under chapter 88.02 RCW; and

(c) Seaplanes.

(26) "Water body" means an area that carries or contains a collection of water, regardless of whether the feature carrying or containing the water is natural or nonnatural. Examples include basins, bays, coves, streams, rivers, springs, lakes, wetlands, reservoirs, ponds, tanks, irrigation canals, and ditches. [2017 3rd sp.s. c 17 § 305. Prior: 2014 c 202 § 102.]

Findings—2014 c 202: "The legislature finds that:

(1) The state's fish, wildlife, and habitat are exceptionally valuable environmental resources for the state's citizens.

(2) The state's fish, wildlife, and habitat also provide exceptionally valuable economic, cultural, and recreational resources. These include hydroelectric power, agriculture, forests, water supplies, commercial and recreational fisheries, aquaculture, and public access to outdoor recreational opportunities.

(3) Invasive species pose a grave threat to these environmental and economic resources, especially to salmon recovery and state and federally listed threatened and endangered species. Because of the significant harm invasive species can cause, invasive species constitute a public nuisance.

(4) If allowed to become established, invasive species can threaten human health and cause environmental and economic disasters affecting not only our state, but other states and nations.

(5) The risk of invasive species spreading into Washington increases as travel and commerce grows in volume and efficiency.

(6) Prevention of invasive species is a cost-effective, successful, and proven management strategy. Prevention is the state's highest management priority with an emphasis on education and outreach, inspections, and rapid response.

(7) The integrated management of invasive species through pathways regulated by the department is critical to preventing the introduction and

spread of a broad range of such species, including plants, diseases, and parasites.

(8) Washington's citizens must work together to protect the state from invasive species.

(9) Public and private partnerships, cooperative agreements, and compacts are important for preventing new arrivals and managing existing populations of invasive species, and coordinating these actions on local, state, national, and international levels.

(10) The department requires authority for this mission to effectively counter the unpredictable nature of invasive species' introductions and spread, enable the utilization of new advances in invasive ecology science, and implement applicable techniques and technology to address invasive species.

(11) An integrated management approach provides the best way for the state to manage invasive species and includes opportunities for creating an informed public, encouraging public involvement, and striving for local, regional, national, and international cooperation and consistency on management standards. An integrated management approach also applies sound science to minimize the chance that invasive species used for beneficial purposes will result in environmental harm.

(12) This chapter provides authority for the department to effectively address invasive species using an integrated management approach.

(13) The department of fish and wildlife currently has sufficient statutory authority to effectively address invasive species risks posed through discharge of ballast water under chapter 77.120 RCW and by private sector shellfish aquaculture operations regulated under chapter 77.115 RCW. The programs developed by the department under these chapters embody the principles of prevention as the highest priority, integrated management of pathways, public-private partnerships, clean and drain principles, and rapid response capabilities." [2014 c 202 § 101.]

77.135.020 Department is lead agency for managing invasive species—Responsibilities—Limitation of chapter.

(1) The department is the lead agency for managing invasive species of the animal kingdom statewide. This lead responsibility excludes pests, domesticated animals, or livestock managed by the department of agriculture under Titles 15, 16, and 17 RCW, forest invasive insect and disease species managed by the department of natural resources under Title 76 RCW, and mosquito and algae control and shellfish sanitation managed by the department of health under Titles 69, 70, and 90 RCW.

(2) Subject to the availability of funding for these specific purposes, the department may:

(a) Develop and implement integrated invasive species management actions and programs authorized by this chapter, including rapid response, early detection and monitoring, prevention, containment, control, eradication, and enforcement;

(b) Establish and maintain an invasive species outreach and education program, in coordination with the Washington invasive species council, that covers public, commercial, and professional pathways and interests;

(c) Align management classifications, standards, and enforcement provisions by rule with regional, national, and international standards and enforcement provisions;

(d) Manage invasive species to support the preservation of native species, salmon recovery, and the overall protection of threatened or endangered species;

(e) Participate in local, state, regional, national, and international efforts regarding invasive species to support the intent of this chapter;

(f) Provide technical assistance or other support to tribes, federal agencies, local governments, and private groups to promote an informed public and assist the department in meeting the intent of this chapter;

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(g) Enter into partnerships, cooperative agreements, and state or interstate compacts as necessary to accomplish the intent of this chapter;

(h) Research and develop invasive species management tools, including standard methods for decontaminating aquatic conveyances and controlling or eradicating invasive species from water bodies and properties;

(i) Post invasive species signs and information at port districts, privately or publicly owned marinas, state parks, and all boat launches owned or leased by state agencies or political subdivisions; and

(j) Adopt rules as needed to implement the provisions of this chapter.

(3) The department may delegate selected and clearly identified elements of its authorities and duties to another agency of the state with appropriate expertise or administrative capacity upon cooperative agreement with that agency. This delegation may include provisions of funding for implementation of the delegations. The department retains primary authority and responsibility for all requirements of this chapter unless otherwise directed in this chapter.

(4) This chapter does not apply to the possession or introduction of nonnative aquatic animal species by:

(a) Ballast water held or discharged by vessels regulated under chapter 77.120 RCW; or

(b) Private sector aquaculture operations, transfers, or conveyances regulated under chapter 77.115 RCW.

(5) This chapter does not preempt or replace other department species classification systems or other management requirements under this title. However, the department must streamline invasive species requirements under this chapter into existing permits and cooperative agreements as possible. [2014 c 202 § 103.]

Findings—2014 c 202: See note following RCW 77.135.010.

77.135.030 Classification of species—Rules. (1) The department, in consultation with the invasive species council, may classify or reclassify and list by rule nonnative aquatic animal species as prohibited level 1, level 2, or level 3, based on the degree of invasive risk, the type of management action required, and resources available to conduct the management action.

(a) Species classified as prohibited level 1 pose a high invasive risk and are a priority for prevention and expedited rapid response management actions.

(b) Species classified as prohibited level 2 pose a high invasive risk and are a priority for long-term infested site management actions.

(c) Species classified as prohibited level 3 pose a moderate to high invasive risk and may be appropriate for prevention, rapid response, or other prohibited species management plan actions by the department, another agency, a local government, tribes, or the public.

(2) The department, in consultation with the invasive species council, may classify and list by rule regulated type A species. This classification is used for nonnative aquatic animal species that pose a low to moderate invasive risk that can be managed based on intended use or geographic scope of introduction, have a beneficial use, and are a priority for department-led or department-approved management of the species' beneficial use and invasive risks.

(3) Nonnative aquatic animal species not classified as prohibited level 1, level 2, or level 3 under subsection (1) of this section, or as regulated type A species under subsection (2) of this section, are automatically managed statewide as regulated type B species or regulated type C species and do not require listing by rule.

(a) Species managed as regulated type B pose a low or unknown invasive risk and are possessed for personal or commercial purposes, such as for aquariums, live food markets, or as nondomesticated pets.

(b) Species managed as regulated type C pose a low or unknown invasive risk and include all other species that do not meet the criteria for management as a regulated type B invasive species.

(4) Classification of prohibited and regulated species:

(a) May be by individual species or larger taxonomic groups up to the family name;

(b) Must align, as practical and appropriate, with regional and national classification levels;

(c) Must be statewide unless otherwise designated by a water body, property, or other geographic region or area; and

(d) May define general possession and introduction conditions acceptable under department authorization, a permit, or as otherwise provided by rule.

(5) Prior to or at the time of classifying species by rule as prohibited or regulated under subsections (1) and (2) of this section, the department, in consultation with the invasive species council, must adopt rules establishing standards for determining invasive risk levels and criteria for determining beneficial use that take into consideration environmental impacts, and especially effects on the preservation of native species, salmon recovery, and threatened or endangered species. [2014 c 202 § 104.]

Findings—2014 c 202: See note following RCW 77.135.010.

77.135.040 Prohibited and regulated species—Required authorization. (1) Prohibited level 1, level 2, and level 3 species may not be possessed, introduced on or into a water body or property, or trafficked, without department authorization, a permit, or as otherwise provided by rule.

(2) Regulated type A, type B, and type C species may not be introduced on or into a water body or property without department authorization, a permit, or as otherwise provided by rule.

(3) Regulated type B species, when being actively used for commercial purposes, must be readily and clearly identified in writing by taxonomic species name or subspecies name to distinguish the subspecies from another prohibited species or a regulated type A species. Nothing in this section precludes using additional descriptive language or trade names to describe regulated type B species as long as the labeling requirements of this section are met. [2014 c 202 § 106.]

Findings—2014 c 202: See note following RCW 77.135.010.

77.135.050 Department-declared quarantine. (1) If the department determines it is necessary to protect the environmental, economic, or human health interests of the state from the threat of a prohibited level 1 or level 2 species, the department may declare a quarantine against a water body, property, or region within the state. The department may pro-

hibit or condition the movement of aquatic conveyances and waters from such a quarantined place or area that are likely to contain a prohibited species.

(2) A quarantine declaration under this section may be implemented separately or in conjunction with rapid response management actions under RCW 77.135.060 and infested site management actions under RCW 77.135.070 in a manner and for a duration necessary to protect the interests of the state from the threat of a prohibited level 1 or level 2 species. A quarantine declaration must include:

(a) The reasons for the action including the prohibited level 1 or level 2 species triggering the quarantine;

(b) The boundaries of the area affected;

(c) The action timeline;

(d) Types of aquatic conveyances and waters affected by the quarantine and any prohibition or conditions on the movement of those aquatic conveyances and waters from the quarantine area; and

(e) Inspection and decontamination requirements for aquatic conveyances. [2014 c 202 § 107.]

Findings—2014 c 202: See note following RCW 77.135.010.

77.135.060 Rapid response management actions. (1) The department may implement rapid response management actions where a prohibited level 1 species is detected in or on a water body or property. Rapid response management actions may: Include expedited actions to contain, control, or eradicate the prohibited species; and, if applicable, be implemented in conjunction with a quarantine declaration. Rapid response management actions must be terminated by the department when it determines that the targeted prohibited level 1 species are:

(a) Eradicated;

(b) Contained or controlled without need for further management actions;

(c) Reclassified for that water body; or

(d) Being managed under infested site management actions pursuant to RCW 77.135.070.

(2) If a rapid response management action exceeds seven days, the department may implement an incident command system for rapid response management including scope, duration, and types of actions and to support mutual assistance and cooperation between the department and other affected state and federal agencies, tribes, local governments, and private water body or property owners. The purpose of this system is to coordinate a rapid, effective, and efficient response to contain, control, and eradicate if feasible, a prohibited level 1 species. Mutual assistance and coordination by other state agencies is especially important to assist the department in expediting necessary state and federal environmental permits.

(3) The department may enter into cooperative agreements with national, regional, state, and local rapid response management action partners to establish incident command system structures, secure or prepare submission-ready environmental permits, and identify mutual assistance commitments in preparation for potential future actions.

(4) The department may perform simulated rapid response exercises, testing, or other training activities to prepare for future rapid response management actions.

(5) In implementing rapid response management actions, the department may enter upon property consistent with the process established under RCW 77.135.170. [2014 c 202 § 108.]

Findings—2014 c 202: See note following RCW 77.135.010.

77.135.070 Infested site management actions. (1) The department may implement infested site management actions where a prohibited level 2 species is detected in or on a water body or property. Infested site management actions may: Include long-term actions to contain, control, or eradicate the prohibited species; and, if applicable, be implemented in conjunction with a quarantine declaration. Infested site management actions must be terminated by the department when it determines that the targeted prohibited level 2 species are:

(a) Eradicated;

(b) Contained or controlled without need for further management actions; or

(c) Reclassified for that water body.

(2) The department must consult with affected state and federal agencies, tribes, local governments, and private water body or property owners prior to implementing infested site management actions. The purpose of the consultation is to support mutual assistance and cooperation in providing an effective and efficient response to contain, control, and eradicate, if feasible, a prohibited level 2 species.

(3) The department may enter into cooperative agreements with national, regional, state, and local infested site management action partners to establish management responsibilities, secure or prepare submission-ready environmental permits, and identify mutual assistance commitments.

(4) In implementing infested site management actions, the department may enter upon property consistent with the process established under RCW 77.135.170. [2014 c 202 § 109.]

Findings—2014 c 202: See note following RCW 77.135.010.

77.135.080 Implementation of department's duties—Department is lead agency—Notice. (1) To the extent possible, the department's quarantine declarations under RCW 77.135.050, rapid response management actions under RCW 77.135.060, and infested site management actions under RCW 77.135.070 must be implemented in a manner best suited to contain, control, and eradicate prohibited level 1 and level 2 species while protecting human safety, minimizing adverse environmental impacts to a water body or property, and minimizing adverse economic impacts to owners of an affected water body or property.

(2) The department is the lead agency for quarantine declarations, rapid response, and infested site management actions. Where the infested water body is subject to tribal, federal, or other sovereign jurisdiction, the department:

(a) Must consult with appropriate federal agencies, tribal governments, other states, and Canadian government entities to develop and implement coordinated management actions on affected water bodies under shared jurisdiction;

(b) May assist in infested site management actions where these actions may prevent the spread of prohibited species into state water bodies; and

(c) May assist other states and Canadian government entities, in the Columbia river basin, in management actions

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on affected water bodies outside of the state where these actions may prevent the spread of the species into state water bodies.

(3)(a) The department must provide notice of quarantine declarations, rapid response, and infested site management actions to owners of an affected water body or property. Notice may be provided by any reasonable means, such as in person, by United States postal service, by publication in a local newspaper, by electronic publication including social media or postings on the department's public web site, or by posting signs at the water body.

(b) The department must provide updates to owners of an affected water body or property based on management action type as follows:

(i) Every seven days for a rapid response management action and, if applicable, a quarantine declaration implemented in conjunction with a rapid response management action;

(ii) Every six months for a separate quarantine declaration;

(iii) Annually for the duration of an infested site management action and, if applicable, a quarantine declaration implemented in conjunction with an infested site management action; and

(iv) A final update at the conclusion of any management action.

(c) In addition to owners of an affected water body or property, the department must provide notice of a quarantine declaration to members of the public by any reasonable means for an area subject to a quarantine declaration, such as by publication in a local newspaper, by electronic publication including social media or postings on the department's public web site, or by posting signs at the water body. The department must provide updates at reasonable intervals and a final update at the conclusion of the quarantine declaration.

(4) The department must publicly list those water bodies or portions of water bodies in which a prohibited level 1 or level 2 species has been detected. The department may list those areas in which a prohibited level 3 species has been detected.

(5) When posting signs at a water body or property where a prohibited species has been detected, the department must consult with owners of the affected water body or property regarding placement of those signs. [2014 c 202 § 110.]

Findings—2014 c 202: See note following RCW 77.135.010.

77.135.090 Emergency measures. (1) If the director finds that there exists an imminent danger of a prohibited level 1 or level 2 species detection that seriously endangers or threatens the environment, economy, human health, or well-being of the state of Washington, the director must ask the governor to order, under RCW 43.06.010(14), emergency measures to prevent or abate the prohibited species. The director's findings must contain an evaluation of the effect of the emergency measures on environmental factors such as fish listed under the endangered species act, economic factors such as public and private access, human health factors such as water quality, or well-being factors such as cultural resources.

(2) If an emergency is declared pursuant to RCW 43.06.010(14), the director may consult with the invasive

species council to advise the governor on emergency measures necessary under RCW 43.06.010(14) and this section, and make subsequent recommendations to the governor. The invasive species council must involve owners of the affected water body or property, state and local governments, federal agencies, tribes, public health interests, technical service providers, and environmental organizations, as appropriate.

(3) Upon the governor's approval of emergency measures, the director may implement these measures to prevent, contain, control, or eradicate invasive species that are the subject of the emergency order, notwithstanding the provisions of chapter 15.58 or 17.21 RCW or any other statute. These measures, after evaluation of all other alternatives, may include the surface and aerial application of pesticides.

(4) The director must continually evaluate the effects of the emergency measures and report these to the governor at intervals of not less than ten days. The director must immediately advise the governor if the director finds that the emergency no longer exists or if certain emergency measures should be discontinued. [2014 c 202 § 111.]

Findings—2014 c 202: See note following RCW 77.135.010.

77.135.100 Aquatic conveyance—Certificate of inspection—Adoption of rules. (1) A person in possession of an aquatic conveyance who enters Washington by road, air, or water is required to have a certificate of inspection. A person must provide this certificate of inspection upon request by a fish and wildlife officer or ex officio fish and wildlife officer.

(2) The department must adopt rules to implement this section including:

(a) Types of aquatic conveyances required to have a certificate of inspection;

(b) Allowable certificate of inspection forms including passport type systems and integration with existing similar permits;

(c) Situations when authorization can be obtained for transporting an aquatic conveyance not meeting inspection requirements to a specified location within the state where certificate of inspection requirements can be provided; and

(d) Situations where aquatic conveyances are using shared boundary waters of the state, such as portions of the Columbia river, lake Osoyoos, and the Puget Sound. [2014 c 202 § 112.]

Findings—2014 c 202: See note following RCW 77.135.010.

77.135.110 Aquatic conveyance—Clean and drain requirements—Enforcement—Adoption of rules. (1) A person in possession of an aquatic conveyance must meet clean and drain requirements after the conveyance's use in or on a water body or property. A certificate of inspection is not needed to meet clean and drain requirements.

(2) A fish and wildlife officer or ex officio fish and wildlife officer may order a person transporting an aquatic conveyance not meeting clean and drain requirements to:

(a) Clean and drain the conveyance at the discovery site, if the department determines there are sufficient resources available; or

(b) Transport the conveyance to a reasonably close location where resources are sufficient to meet the clean and drain requirements.

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(3) This section may be enforced immediately on the transportation of aquatic plants by registered vessels, small vessels, seaplanes, and commercial vessels. The department must adopt rules to implement all other aspects of clean and drain requirements, including:

(a) Other types of aquatic conveyances subject to this requirement;

(b) When transport of an aquatic conveyance is authorized if clean and drain services are not readily available at the last water body used; and

(c) Exemptions to clean and drain requirements where the department determines there is minimal risk of spreading invasive species. [2017 3rd sp.s. c 17 § 308; 2014 c 202 § 113.]

Findings—2014 c 202: See note following RCW 77.135.010.

77.135.120 Mandatory check stations. (1) The department may establish mandatory check stations to inspect aquatic conveyances for clean and drain requirements and aquatic invasive species. The check stations must be operated by at least one fish and wildlife officer, an ex officio fish and wildlife officer in coordination with the department, or department-authorized representative, and must be plainly marked by signs and operated in a safe manner.

(2) Aquatic conveyances required to stop at mandatory check stations include registered vessels, commercial vessels, and small vessels. The department may establish rules governing other types of aquatic conveyances that must stop at mandatory check stations. The rules must provide sufficient guidance so that a person transporting the aquatic conveyance readily understands that he or she is required to stop.

(3) A person who encounters a mandatory check station while transporting an aquatic conveyance must:

(a) Stop at the mandatory check station;

(b) Allow the aquatic conveyance to be inspected for clean and drain requirements and aquatic invasive species;

(c) Follow clean and drain orders if clean and drain requirements are not met pursuant to RCW 77.135.110; and

(d) Follow decontamination orders pursuant to RCW 77.135.130 if an aquatic invasive species is found.

(4) A person who complies with the department directives under this section is exempt from criminal penalties under RCW 77.15.809 and 77.15.811, civil penalties under *RCW 77.15.160(4), and civil forfeiture under RCW 77.15.070, unless the person has a prior conviction for an invasive species violation within the past five years. [2017 3rd sp.s. c 17 § 309; 2014 c 202 § 114.]

*Reviser's note: RCW 77.15.160 was amended by 2017 3rd sp.s. c 8 § 42, changing subsection (4) to subsection (5), effective January 1, 2018.

Findings—2014 c 202: See note following RCW 77.135.010.

77.135.130 Decontamination order. (1) Upon discovery of an aquatic conveyance that carries or contains an aquatic invasive species without department authorization, a permit, or as otherwise provided by rule, a fish and wildlife officer or ex officio fish and wildlife officer may issue a decontamination order:

(a) Requiring decontamination at the discovery site, if the situation presents a low risk of aquatic invasive species introduction, and sufficient department resources are available at the discovery site;

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(b) Prohibiting the launch of the aquatic conveyance in a water body until decontamination is completed and certified, if the situation presents a low risk of aquatic invasive species introduction, and sufficient department resources are not available at the discovery site;

(c) Requiring immediate transport of the conveyance to an approved decontamination station, and prohibiting the launch of the conveyance in a water body until decontamination is completed and certified, if the situation presents a moderate risk of aquatic invasive species introduction, and sufficient department resources are not available at the discovery site; or

(d) Seizing and transporting the aquatic conveyance to an approved decontamination station until decontamination is completed and certified, if the situation presents a high risk of aquatic invasive species introduction, and sufficient department resources are not available at the discovery site.

(2) The person possessing the aquatic conveyance that is subject to orders issued under subsection (1)(b) through (d) of this section must bear any costs for seizure, transportation, or decontamination.

(3) Orders issued under subsection (1)(b) through (d) of this section must be in writing and must include notice of the opportunity for a hearing pursuant to RCW 77.135.140 to determine the validity of the orders.

(4) If a decontamination order is issued under subsection (1)(d) of this section, the department may seize the aquatic conveyance for two working days or a reasonable additional period of time thereafter as needed to meet decontamination requirements. The decontamination period must be based on factors including conveyance size and complexity, type and number of aquatic invasive species present, and decontamination station resource capacity.

(5) If an aquatic conveyance is subject to forfeiture under RCW 77.15.070, the timelines and other provisions under that section apply to the seizure.

(6) Upon decontamination and issuing a certificate of inspection, an aquatic conveyance must be released to the person in possession of the aquatic conveyance at the time the decontamination order was issued, or to the owner of the aquatic conveyance. [2014 c 202 § 115.]

Findings—2014 c 202: See note following RCW 77.135.010.

77.135.140 Person aggrieved or adversely affected by department's action—Hearing. (1) A person aggrieved or adversely affected by a quarantine declaration under RCW 77.135.050, a rapid response management action under RCW 77.135.060, an infested site management action under RCW 77.135.070, or a decontamination order under RCW 77.135.130 may contest the validity of the department's actions by requesting a hearing in writing within twenty days of the department's actions.

(2) Hearings must be conducted pursuant to chapter 34.05 RCW and the burden of demonstrating the invalidity of agency action is on the party asserting invalidity. The hearing may be conducted by the director or the director's designee and may occur telephonically.

(3) A hearing on a decontamination order is limited to the issues of whether decontamination was necessary and the reasonableness of costs assessed for any seizure, transportation, and decontamination. If the person in possession of the

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aquatic conveyance that was decontaminated prevails at the hearing, the person is entitled to reimbursement by the department for any costs assessed by the department or decontamination station operator for the seizure, transportation, and decontamination. If the department prevails at the hearing, the department is not responsible for and may not reimburse any costs. [2014 c 202 § 116.]

Findings—2014 c 202: See note following RCW 77.135.010.

77.135.150 Aquatic conveyance inspection and decontamination stations—Adoption of rules. (1) The department may operate aquatic conveyance inspection and decontamination stations statewide for voluntary use by the public or for mandatory use where directed by the department to meet inspection and decontamination requirements of this chapter. Decontamination stations can be part of or separate from inspection stations. Inspection and decontamination stations are separate from commercial vehicle weigh stations operated by the Washington state patrol.

(2) Inspection station staff must inspect aquatic conveyances to determine whether the conveyances carry or contain aquatic invasive species. If an aquatic conveyance is free of aquatic invasive species, then inspection station staff must issue a certificate of inspection. A certificate of inspection is valid until the conveyance's next use in a water body.

(3) If a conveyance carries or contains aquatic invasive species, then inspection station staff must require the conveyance's decontamination before issuing a certificate of inspection. The certificate of inspection is valid until the conveyance's next use in a water body.

(4) The department must identify, in a way that is readily available to the public, the location and contact information for inspection and decontamination stations.

(5) The department must adopt by rule standards for inspection and decontamination that, where practical and appropriate, align with regional, national, and international standards. [2014 c 202 § 117.]

Findings—2014 c 202: See note following RCW 77.135.010.

77.135.160 Department-authorized representatives—Adoption of rules—Fee schedule. (1) The department may authorize representatives to operate its inspection and decontamination stations and mandatory check stations. Department-authorized representatives may be department volunteers, other law enforcement agencies, or independent businesses.

(2) The department must adopt rules governing the types of services that department-authorized representatives may perform under this chapter.

(3) Department-authorized representatives must have official identification, training, and administrative capacity to fulfill their responsibilities under this section.

(4) By December 1, 2018, the department must provide the legislature with recommendations for a fee schedule that department-authorized representatives may charge users whose aquatic conveyances receive inspection and decontamination services. [2017 3rd sp.s. c 17 § 306; 2014 c 202 § 118.]

Findings—2014 c 202: See note following RCW 77.135.010.

77.135.170 Department's authority to enter upon property/water body—Notification—Application, issuance of warrant. (1) The department may enter upon a property or water body at any reasonable time for the purpose of administering this chapter, including inspecting and decontaminating aquatic conveyances, collecting invasive species samples, implementing rapid response management actions or infested site management actions, and containing, controlling, or eradicating invasive species.

(2) Prior to entering the property or water body, the department shall make a reasonable attempt to notify the owner of the property or water body as to the purpose and need for the entry. Should the department be denied access to any property or water body where access is sought for the purposes set forth in this chapter, the department may apply to any court of competent jurisdiction for a warrant authorizing access to the property.

(3) Upon such an application, the court may issue the warrant for the purposes requested where the court finds reasonable cause to believe it is necessary to achieve the purposes of this chapter. [2014 c 202 § 119.]

Findings—2014 c 202: See note following RCW 77.135.010.

77.135.180 Chapter must be liberally construed. The provisions of this chapter must be liberally construed to carry out the intent of the legislature. [2014 c 202 § 120.]

Findings—2014 c 202: See note following RCW 77.135.010.

77.135.200 Aquatic invasive species management account. The aquatic invasive species management account is created in the state treasury. All receipts directed to the account from RCW 88.02.640 and 77.135.230, as well as legislative appropriations, gifts, donations, fees, and penalties received by the department for aquatic invasive species management, must be deposited into the account. Moneys in the account may be used only after appropriation. Expenditures from the account may only be used to implement aquatic invasive species-related provisions under this title. [2017 3rd sp.s. c 17 § 101.]

77.135.210 Aquatic invasive species prevention permit—Operators of vessels and aquatic conveyances. (1) The department may issue aquatic invasive species prevention permits to operators of vessels and aquatic conveyances.

(2) A person must obtain a Washington state aquatic invasive species prevention permit for each seaplane or vessel registered in another state, before placing or operating such a vessel or seaplane on any water body in the state.

(3) The valid aquatic invasive species prevention permit must be present and readily available for inspection by a fish and wildlife officer or ex officio fish and wildlife officer at the location where the vessel or seaplane is placed or operated.

(4) Aquatic invasive species prevention permits for conveyances listed in subsection (2) of this section are not transferable. [2017 3rd sp.s. c 17 § 201.]

77.135.220 Aquatic invasive species prevention permits—Commercial transporters and aquatic conveyances. (1) The department may issue aquatic invasive spe-

cies prevention permits to commercial transporters of vessels and aquatic conveyances.

(2) A person must obtain a Washington state aquatic invasive species prevention permit before commercially transporting into or through the state one or more of the following conveyances that have previously been placed or operated in the waters of any state or country: (a) A small vessel; (b) a registered vessel; (c) a seaplane; or (d) a commercial vessel.

(3) The valid aquatic invasive species prevention permit must be present and readily available for inspection upon request by a fish and wildlife officer or ex officio fish and wildlife officer at any location where the listed conveyance is associated with the transport vehicle.

(4) The aquatic invasive species prevention permit is transferable between vehicles and vehicle operators of the same business used to commercially transport aquatic conveyances but a separate permit is required for each vehicle operator commercially transporting aquatic conveyances at any given time.

(5) An aquatic invasive species prevention permit is not required to commercially transport new conveyances if the vehicle operator has documentation present and readily available proving all conveyances originated from the manufacturer or vendor and the conveyances have never been placed or operated in waters of any state or country. [2017 3rd sp.s. c 17 § 202.]

77.135.230 Aquatic invasive species prevention permit—Fee—Exempt vessels. (1) Washington state aquatic invasive species prevention permits are valid for one year beginning from the date that the permit is marked for activation unless otherwise directed by the department. The permits must be made available for purchase throughout the year through the department's automated licensing system consistent with RCW 77.32.050.

(2) The aquatic invasive species prevention permit fee for a nonresident registered vessel or seaplane as required under RCW 77.135.210 is twenty dollars.

(3) The aquatic invasive species prevention permit fee for a person commercially transporting a small vessel, registered vessel, seaplane, or commercial vessel as required under RCW 77.135.220 is twenty dollars.

(4) The department may adopt rules addressing conditions and costs of obtaining duplicate aquatic invasive species prevention permits.

(5) Permit fees collected under this section must be deposited into the aquatic invasive species management account created in RCW 77.135.200.

(6) Exemptions for aquatic invasive species prevention permits include:

(a) A military vessel or seaplane owned by the United States government; and

(b) A vessel clearly identified as being owned by any federal, tribal, state, or local government agency or other public corporations, and used primarily for governmental purposes.

(7)(a) The following nonresident aquatic conveyances are exempt from aquatic invasive species prevention permit requirements under this section while placed or operated on shared boundary waters of the state:

(i) Vessels having valid state of Idaho or Oregon registration or numbering; and

(ii) Seaplanes or commercial vessels having a valid Idaho or Oregon aquatic invasive species prevention or similar permit.

(b) The department may adopt by rule a regional reciprocity process to further exempt aquatic conveyances from permit requirements under this section in part or whole. A reciprocity system may be implemented only where the participating state or country does not require a Washington resident to purchase an equivalent permit. [2017 3rd sp.s. c 17 § 203.]

77.135.240 Aquatic invasive species local management grant program. (1) Money in the aquatic invasive species management account created in RCW 77.135.200 may be appropriated to the department to establish an aquatic invasive species local management grant program. The department shall enter into agreement with the recreation and conservation office to administer the grant funds or other financial assistance, assist the department in developing grant program policies and funding criteria, and consult with the department prior to awarding grants. State agencies, cities, counties, tribes, special purpose districts, academic institutions, and nonprofit groups are eligible for competitive grants to:

(a) Manage prohibited level 1 or level 2 aquatic [invasive] species at a local level;

(b) Develop rapid response management cooperative agreements for local water bodies;

(c) Develop or implement prohibited species management cooperative agreements for local water bodies; and

(d) Conduct innovative applied research that directly supports on-the-ground prevention, control, and eradication efforts.

(2) The department may give preference to projects that have matching funds, provide in-kind services, or maintain or enhance outdoor recreational opportunities. [2017 3rd sp.s. c 17 § 302.]

Chapter 77.140 RCW

SEAFOOD LABELING REQUIREMENTS

Sections

77.140.010	Definitions.
77.140.020	Seafood labeling requirements—Pamphlet.
77.140.030	Fish and shellfish labeling—Identification of species—Exceptions—Penalty.
77.140.040	Salmon labeling—Identification as farm-raised or commercially caught—Exceptions—Penalty.
77.140.050	Fish and shellfish—Rules for identification and labeling.
77.140.060	Misbranding of fish or shellfish—Penalties.

77.140.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Commercially caught" means wild or hatchery-raised salmon harvested in the wild by commercial fishers. The term does not apply to farmed fish raised exclusively by private sector aquaculture.

(2) "Fish" means fresh or saltwater finfish and other forms of aquatic animal life other than crustaceans, mollusks,

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birds, and mammals where the animal life is intended for human consumption.

(3) "Salmon" means all species of the genus *Oncorhynchus*, except those classified as game fish in RCW 77.08.020, and includes:

SCIENTIFIC NAME	COMMON NAME
<i>Oncorhynchus tshawytscha</i>	Chinook salmon or king salmon
<i>Oncorhynchus kisutch</i>	Coho salmon or silver salmon
<i>Oncorhynchus keta</i>	Chum or "keta" salmon
<i>Oncorhynchus gorbuscha</i>	Pink salmon
<i>Oncorhynchus nerka</i>	Sockeye or "red" salmon
<i>Salmo salar</i> (in other than its landlocked form)	Atlantic salmon

(4) "Shellfish" means crustaceans and all mollusks where the animal life is intended for human consumption. [2018 c 236 § 607; 2013 c 290 § 3; 1993 c 282 § 2. Formerly RCW 69.04.932.]

Finding—1993 c 282: "The legislature finds that salmon consumers in Washington benefit from knowing the species and origin of the salmon they purchase. The accurate identification of such species, as well as knowledge of the country or state of origin and of whether they were caught commercially or were farm-raised, is important to consumers." [1993 c 282 § 1.]

77.140.020 Seafood labeling requirements—Pamphlet. The department of may:

(1) Develop a pamphlet that generally describes the labeling requirements for seafood as set forth in this chapter; and

(2) Make the pamphlet available to holders of any license associated with buying and selling fish or shellfish under chapter 77.65 RCW. [2018 c 236 § 606; 2013 c 290 § 2; 2002 c 301 § 11. Formerly RCW 69.04.928.]

Finding—Effective date—2002 c 301: See notes following RCW 77.65.510.

77.140.030 Fish and shellfish labeling—Identification of species—Exceptions—Penalty. (1) It is unlawful to knowingly sell or offer for sale at wholesale or retail any fresh, frozen, or processed fish or shellfish without identifying for the buyer at the point of sale the species of fish or shellfish by its common name, such that the buyer can make an informed purchasing decision for his or her protection, health, and safety.

(2) It is unlawful to knowingly label or offer for sale any fish designated as halibut, with or without additional descriptive words, unless the fish product is *Hippoglossus hippoglossus* or *Hippoglossus stenolepis*.

(3) This section does not apply to salmon that is minced, pulverized, coated with batter, or breaded.

(4) This section does not apply to a commercial fisher properly licensed under chapter 77.65 or 77.70 RCW and engaged in sales of fish to a wholesale fish buyer.

(5) A violation of this section constitutes misbranding under RCW 77.140.060 and is punishable as a misdemeanor, gross misdemeanor, or felony depending on the fair market value of the fish or shellfish involved in the violation.

(6)(a) The common names for salmon species are as listed in RCW 77.140.010.

(b) The common names for all other fish and shellfish are the common names for fish and shellfish species as defined by rule of the department. If the common name for a

species is not defined by rule of the department, then the common name is the acceptable market name or common name as provided in the United States food and drug administration's publication "Seafood list - FDA's guide to acceptable market names for seafood sold in interstate commerce," as the publication existed on July 28, 2013.

(7) For the purposes of this section, "processed" means fish or shellfish processed by heat for human consumption, such as fish or shellfish that is kippered, smoked, boiled, canned, cleaned, portioned, or prepared for sale or attempted sale for human consumption.

(8) Nothing in this section precludes using additional descriptive language or trade names to describe fish or shellfish as long as the labeling requirements in this section are met. [2018 c 236 § 608; 2017 3rd sp.s. c 8 § 6; 2013 c 290 § 4; 1993 c 282 § 3. Formerly RCW 69.04.933.]

Finding—Intent—Effective date—2017 3rd sp.s. c 8: See notes following RCW 77.08.010.

Finding—1993 c 282: See note following RCW 77.140.010.

77.140.040 Salmon labeling—Identification as farm-raised or commercially caught—Exceptions—Penalty. (1) It is unlawful to knowingly sell or offer for sale at wholesale or retail any fresh, frozen, or processed salmon without identifying private sector cultured aquatic salmon or salmon products as farm-raised salmon, or identifying commercially caught salmon or salmon products as commercially caught salmon.

(2) Identification of the products under subsection (1) of this section must be made to the buyer at the point of sale such that the buyer can make an informed purchasing decision for his or her protection, health, and safety.

(3) A violation of this section constitutes misbranding under RCW 77.140.060 and is punishable as a misdemeanor, gross misdemeanor, or felony depending on the fair market value of the fish or shellfish involved in the violation.

(4) This section does not apply to salmon that is minced, pulverized, coated with batter, or breaded.

(5) This section does not apply to a commercial fisher properly licensed under chapter 77.65 or 77.70 RCW and lawfully engaged in the sale of fish to a wholesale fish buyer.

(6) Nothing in this section precludes using additional descriptive language or trade names to describe fish or shellfish as long as the labeling requirements of this section are met. [2018 c 236 § 609; 2017 3rd sp.s. c 8 § 7; 2013 c 290 § 5; 2003 c 39 § 29; 1993 c 282 § 4. Formerly RCW 69.04.934.]

Finding—Intent—Effective date—2017 3rd sp.s. c 8: See notes following RCW 77.08.010.

Finding—1993 c 282: See note following RCW 77.140.010.

77.140.050 Fish and shellfish—Rules for identification and labeling. To promote honesty and fair dealing for consumers and to protect public health and safety, the director, may adopt rules as necessary to:

(1) Establish and implement a reasonable definition and identification standard for species of fish and shellfish that are sold for human consumption;

(2) Provide procedures for enforcing this chapter's fish and shellfish labeling requirements and misbranding prohibi-

tions. [2018 c 236 § 610; 2013 c 290 § 6; 1994 c 264 § 39; 1993 c 282 § 5. Formerly RCW 69.04.935.]

Finding—1993 c 282: See note following RCW 77.140.010.

77.140.060 Misbranding of fish or shellfish—Penalties. (1) A person is guilty of unlawful misbranding of fish or shellfish in the third degree if the person commits an act that violates RCW 77.140.030 or 77.140.040, and the misbranding involves fish or shellfish with a fair market value up to five hundred dollars. Unlawful misbranding of fish or shellfish in the third degree is a misdemeanor.

(2) A person is guilty of unlawful misbranding of fish or shellfish in the second degree if the person commits an act that violates RCW 77.140.030 or 77.140.040, and the misbranding involves fish or shellfish with a fair market value of five hundred dollars or more, up to five thousand dollars. Unlawful misbranding of fish or shellfish in the second degree is a gross misdemeanor.

(3) A person is guilty of unlawful misbranding of fish or shellfish in the first degree if the person commits an act that violates RCW 77.140.030 or 77.140.040, and the misbranding involves fish or shellfish with a fair market value of five thousand dollars or more. Unlawful misbranding of fish or shellfish in the first degree is a class C felony. [2018 c 236 § 611; 2013 c 290 § 7. Formerly RCW 69.04.938.]