

**NINETY-THIRD DAY**

**MORNING SESSION**

Senate Chamber, Olympia, Tuesday, April 14, 2009

The Senate was called to order at 9:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Brandland, Brown, Carrell, Fairley, Hargrove, Kauffman, Roach and Sheldon.

The Sergeant at Arms Color Guard consisting of Pages Shelby Massingale and Shannon Shatto, presented the Colors. Rabbi Cheski Edelman of the Chabad Jewish Discovery Center of Olympia offered the prayer.

**MOTION**

On motion of Senator Eide, the reading of the Journal of the previous day was dispensed with and it was approved.

**MOTION**

On motion of Senator Eide, the Senate advanced to the fourth order of business.

**MESSAGE FROM THE HOUSE**

April 13, 2009

MR. PRESIDENT:

The House has passed the following bills:  
SUBSTITUTE SENATE BILL NO. 5044,  
SUBSTITUTE SENATE BILL NO. 5117,  
SUBSTITUTE SENATE BILL NO. 5267,  
SUBSTITUTE SENATE BILL NO. 5276,  
SENATE BILL NO. 5298,  
SENATE BILL NO. 5303,  
SUBSTITUTE SENATE BILL NO. 5326,  
SUBSTITUTE SENATE BILL NO. 5480,  
SENATE BILL NO. 5587,  
SECOND SUBSTITUTE SENATE BILL NO. 5676,  
SUBSTITUTE SENATE BILL NO. 5752,  
SUBSTITUTE SENATE BILL NO. 5765,  
SUBSTITUTE SENATE BILL NO. 5882,  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

**MESSAGE FROM THE HOUSE**

April 13, 2009

MR. PRESIDENT:

The House has passed the following bills:  
HOUSE BILL NO. 2328  
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

**MOTION**

On motion of Senator Eide, the Senate advanced to the fifth order of business.

**INTRODUCTION AND FIRST READING**

SB 6159 by Senator Oemig

AN ACT Relating to the taxation of moist snuff; amending RCW 82.26.010 and 82.26.020; and providing an effective date.

Referred to Committee on Ways & Means.

SB 6160 by Senator Prentice

AN ACT Relating to criminal justice.

Referred to Committee on Ways & Means.

SB 6161 by Senator Prentice

AN ACT Relating to the actuarial funding of pension systems.

Referred to Committee on Ways & Means.

SB 6162 by Senator Prentice

AN ACT Relating to criminal justice.

Referred to Committee on Ways & Means.

SB 6163 by Senators Keiser and Tom

AN ACT Relating to the nursing facility medicaid payment system; amending RCW 74.46.421 and 74.46.800; adding a new section to chapter 74.46 RCW; creating a new section; repealing RCW 74.46.431, 74.46.433, 74.46.435, 74.46.437, 74.46.439, 74.46.485, 74.46.496, 74.46.501, 74.46.506, 74.46.508, 74.46.511, 74.46.515, 74.46.521, and 74.46.533; providing an effective date; and declaring an emergency.

Referred to Committee on Ways & Means.

**MOTION**

On motion of Senator Eide, all measures listed on the Introduction and First Reading report were referred to the committees as designated.

**MOTION**

On motion of Senator Eide, the Senate advanced to the sixth order of business.

**SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS**

**MOTION**

Senator Kline moved that Gubernatorial Appointment No. 9125, Robyn Todd, as a member of the Small Business Export Finance Assistance Center Board of Directors, be confirmed. Senator Kline spoke in favor of the motion.

**MOTION**

On motion of Senator Delvin, Senators Benton, Brandland, Carrell and Roach were excused.

**MOTION**

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On motion of Senator Marr, Senators Brown, Fairley, Haugen, Kauffman and Sheldon were excused.

#### APPOINTMENT OF ROBYN TODD

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9125, Robyn Todd as a member of the Small Business Export Finance Assistance Center Board of Directors.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9125, Robyn Todd as a member of the Small Business Export Finance Assistance Center Board of Directors and the appointment was confirmed by the following vote: Yeas, 41; Nays, 0; Absent, 1; Excused, 7.

Voting yea: Senators Becker, Benton, Berkey, Delvin, Eide, Franklin, Fraser, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Shin, Stevens, Swecker, Tom and Zarelli

Absent: Senator Hargrove

Excused: Senators Brandland, Brown, Carrell, Fairley, Kauffman, Roach and Sheldon

Gubernatorial Appointment No. 9125, Robyn Todd, having received the constitutional majority was declared confirmed as a member of the Small Business Export Finance Assistance Center Board of Directors.

#### SECOND READING

HOUSE BILL NO. 1184, by Representative Chase

Extending the loan repayment period for municipally funded conservation projects.

The measure was read the second time.

#### MOTION

Senator Rockefeller moved that the following committee striking amendment by the Committee on Environment, Water & Energy be adopted.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 35.92.360 and 2002 c 276 s 2 are each amended to read as follows:

(1) Any city or town engaged in the generation, sale, or distribution of energy is hereby authorized, within limits established by the Constitution of the state of Washington, to assist the owners of structures or equipment in financing the acquisition and installation of materials and equipment, for compensation or otherwise, for the conservation or more efficient use of energy in such structures or equipment pursuant to an energy conservation plan adopted by the city or town if the cost per unit of energy saved or produced by the use of such materials and equipment is less than the cost per unit of energy produced by the next least costly new energy resource which the city or town could acquire to meet future demand. Any financing authorized under this chapter shall only be used for conservation purposes in existing structures, and such financing shall not be used for any purpose which results in a conversion from one energy source to another. For the purposes of this section, "conservation purposes in existing structures" may include projects to allow a municipal electric utility's customers to generate all or a portion of their own electricity through the on-site installation of a distributed electricity generation system

that uses as its fuel solar, wind, geothermal, or hydropower, or other renewable resource that is available on-site and not from a commercial source. Such projects shall not be considered "a conversion from one energy source to another" which is limited to the change or substitution of one commercial energy supplier for another commercial energy supplier. Except where otherwise authorized, such assistance shall be limited to:

((2)) (a) Providing an inspection of the structure or equipment, either directly or through one or more inspectors under contract, to determine and inform the owner of the estimated cost of purchasing and installing conservation materials and equipment for which financial assistance will be approved and the estimated life cycle savings in energy costs that are likely to result from the installation of such materials or equipment;

((2)) (b) Providing a list of businesses who sell and install such materials and equipment within or in close proximity to the service area of the city or town, each of which businesses shall have requested to be included and shall have the ability to provide the products in a workmanlike manner and to utilize such materials in accordance with the prevailing national standards(-);

((2)) (c) Arranging to have approved conservation materials and equipment installed by a private contractor whose bid is acceptable to the owner of the residential structure and verifying such installation; and

((2)) (d) Arranging or providing financing for the purchase and installation of approved conservation materials and equipment. Such materials and equipment shall be purchased from a private business and shall be installed by a private business or the owner.

((2)) (2) Pay back shall be in the form of incremental additions to the utility bill, billed either together with use charge or separately. Loans shall not exceed ~~((one hundred twenty))~~ two hundred forty months in length.

**Sec. 2.** RCW 54.16.032 and 1989 c 421 s 4 are each amended to read as follows:

Any district is hereby authorized, within limits established by the Constitution of the state of Washington, to assist the owners of structures in financing the acquisition and installation of fixtures, systems, and equipment, for compensation or otherwise, for the conservation or more efficient use of water in the structures under a water conservation plan adopted by the district if the cost per unit of water saved or conserved by the use of the fixtures, systems, and equipment is less than the cost per unit of water supplied by the next least costly new water source available to the district to meet future demand. Except where otherwise authorized, assistance shall be limited to:

(1) Providing an inspection of the structure, either directly or through one or more inspectors under contract, to determine and inform the owner of the estimated cost of purchasing and installing conservation fixtures, systems, and equipment for which financial assistance will be approved and the estimated life cycle savings to the water system and the consumer that are likely to result from the installation of the fixtures, systems, or equipment;

(2) Providing a list of businesses that sell and install the fixtures, systems, and equipment within or in close proximity to the service area of the city or town, each of which businesses shall have requested to be included and shall have the ability to provide the products in a workmanlike manner and to utilize the fixtures, systems, and equipment in accordance with the prevailing national standards;

(3) Arranging to have approved conservation fixtures, systems, and equipment installed by a private contractor whose bid is acceptable to the owner of the structure and verifying the installation; and

(4) Arranging or providing financing for the purchase and installation of approved conservation fixtures, systems, and

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equipment. The fixtures, systems, and equipment shall be purchased or installed by a private business, the owner, or the utility.

Pay back shall be in the form of incremental additions to the utility bill, billed either together with use charge or separately. Loans shall not exceed ((one)) two hundred ((twenty)) forty months in length."

Senator Rockefeller spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Environment, Water & Energy to House Bill No. 1184.

The motion by Senator Rockefeller carried and the committee striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "utilities" strike the remainder of the title and insert "and public utility districts; and amending RCW 35.92.360 and 54.16.032."

#### MOTION

On motion of Senator Rockefeller, the rules were suspended, House Bill No. 1184 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Rockefeller and Honeyford spoke in favor of passage of the bill.

#### MOTION

On motion of Senator Marr, Senator Hargrove was excused.

The President declared the question before the Senate to be the final passage of House Bill No. 1184 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1184 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 42; Nays, 0; Absent, 0; Excused, 7.

Voting yea: Senators Becker, Benton, Berkey, Delvin, Eide, Franklin, Fraser, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Brandland, Brown, Carrell, Fairley, Hargrove, Kauffman and Sheldon

HOUSE BILL NO. 1184 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1326, by House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Blake, Van De Wege, Kretz and Nelson)

Establishing a license limitation program for harvest and delivery of Pacific sardines into the state.

The measure was read the second time.

#### MOTION

Senator Jacobsen moved that the following committee striking amendment by the Committee on Natural Resources, Ocean & Recreation be adopted.

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** A new section is added to chapter 77.70 RCW to read as follows:

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*.

**NEW SECTION. Sec. 2.** A new section is added to chapter 77.70 RCW to read as follows:

(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.

**NEW SECTION. Sec. 3.** A new section is added to chapter 77.70 RCW to read as follows:

(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 is one hundred eighty-five dollars for residents and two hundred ninety-five dollars for nonresidents.

(5) The fee for a Washington Pacific sardine purse seine temporary annual fishery permit is one hundred eighty-five dollars for residents and two hundred ninety-five dollars for nonresidents. 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 by-catch, and to the extent by-catch cannot be avoided, to minimize the mortality of such by-catch.

**Sec. 4.** RCW 77.65.200 and 2000 c 107 s 41 are each amended to read as follows:

(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 Resident	Annual Fee Nonresident	Vessel Required?	Limited Entry?
(a) Baitfish Lampara	\$185	\$295	Yes	No
(b) Baitfish purse seine	\$530	\$985	Yes	No
(c) Bottom fish jig	\$130	\$185	Yes	No
(d) Bottom fish pot	\$130	\$185	Yes	No
(e) Bottom fish troll	\$130	\$185	Yes	No
(f) Carp	\$130	\$185	No	No
(g) Columbia river smelt	\$380	\$685	No	No
(h) Dog fish set net	\$130	\$185	Yes	No
(i) Emerging commercial fishery (RCW 77.70.160 and 77.65.400)	\$185	\$295	Determined by rule	Determined by rule
(j) Food fish drag seine	\$130	\$185	Yes	No
(k) Food fish set line	\$130	\$185	Yes	No
(l) Food fish trawl- Non-Puget Sound	\$240	\$405	Yes	No
(m) Food fish trawl- Puget Sound	\$185	\$295	Yes	No
(n) Herring dip bag net (RCW 77.70.120)	\$175	\$275	Yes	Yes
(o) Herring drag seine (RCW 77.70.120)	\$175	\$275	Yes	Yes
(p) Herring gill net (RCW 77.70.120)	\$175	\$275	Yes	Yes
(q) Herring Lampara (RCW 77.70.120)	\$175	\$275	Yes	Yes

(R) Herring purse seine (RCW 77.70.120)	\$175	\$275	Yes	Yes
(s) Herring spawn- on-kelp (RCW 77.70.210)	N/A	N/A	Yes	Yes
(t) <u>Sardine purse seine</u> (section 2 of this act)	\$185	\$295	Yes	Yes
(u) <u>Sardine purse seine</u> temporary (section 2 of this act)	\$185	\$295	Yes	No
(v) Smelt dip bag net	\$130	\$185	No	No
((+)) (w) Smelt gill net	\$380	\$685	Yes	No
((+)) (x) Whiting- Puget Sound (RCW 77.70.130)	\$295	\$520	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."

Senator Jacobsen spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Natural Resources, Ocean & Recreation to Engrossed Substitute House Bill No. 1326.

The motion by Senator Jacobsen carried and the committee striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 3 of the title, after "state;" strike the remainder of the title and insert "amending RCW 77.65.200; and adding new sections to chapter 77.70 RCW."

MOTION

On motion of Senator Jacobsen, the rules were suspended, Engrossed Substitute House Bill No. 1326 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Jacobsen and Morton spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1326 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1326 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 0; Excused, 5.

Voting yea: Senators Becker, Benton, Berkey, Delvin, Eide, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs,

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Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Brandland, Brown, Carrell, Fairley and Sheldon

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1326 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 1522, by House Committee on General Government Appropriations (originally sponsored by Representatives Hudgins, Dunshee, Hunt, Hasegawa, Williams and Chase)

Regarding repair and reuse of electronic products by registered collectors.

The measure was read the second time.

#### MOTION

On motion of Senator Pridemore, the rules were suspended, Second Substitute House Bill No. 1522 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Pridemore spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 1522.

#### ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 1522 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Fairley and Sheldon

SECOND SUBSTITUTE HOUSE BILL NO. 1522, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

At 9:36 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 11:27 a.m. by President Owen.

#### MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

#### MESSAGE FROM THE HOUSE

April 13, 2009

MR. PRESIDENT:

The House has passed the following bill:

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2075, and the same is herewith transmitted.

BARBARA B AKER, Chief Clerk

#### PERSONAL PRIVILEGE

Senator Hatfield: "Thank you Mr. President. I have the menu in front of me right now. Sliced tri-tip beef sandwiches on rolls with potato, milk and other drinks. Today is Beef Day. The industry has come to town and will be providing barbeque around lunch time. We're going to celebrate another important industry in this state which is approximately 2.3 billion dollar industry. No small potatoes but some real red meat there. Invite ya all out for barbeque. Thank you."

#### MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

#### SECOND READING

HOUSE JOINT MEMORIAL NO. 4005, by Representatives Santos, Hasegawa, McCune, Hurst, Campbell, Pedersen, Hunter, Rodne, Warnick, Smith, Anderson, Ross, Angel, Walsh, Bailey, Roach, Shea, Upthegrove, Morrell, Ormsby, Hudgins, Conway, Rolfes, Kelley and Kenney

Requesting the Postal Service to issue a postage stamp commemorating Nisei veterans.

The measure was read the second time.

#### MOTION

On motion of Senator Hobbs, the rules were suspended, House Joint Memorial No. 4005 was advanced to third reading, the second reading considered the third and the memorial was placed on final passage.

Senators Hobbs, Kline, Shin and Swecker spoke in favor of passage of the bill.

#### MOTION

On motion of Senator Brandland, Senator Pflug was excused.

#### MOTION

On motion of Senator Marr, Senator Brown was excused.

The President declared the question before the Senate to be the final passage of House Joint Memorial No. 4005.

#### ROLL CALL

The Secretary called the roll on the final passage of House Joint Memorial No. 4005 and the memorial passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Carrell, Delvin, Eide, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Shin, Stevens, Swecker, Tom and Zarelli

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Excused: Senators Brown, Fairley and Sheldon  
HOUSE JOINT MEMORIAL NO. 4005, having received  
the constitutional majority, was declared passed.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1778, by House  
Committee on Agriculture & Natural Resources (originally  
sponsored by Representative Blake)

Modifying various provisions of Title 77 RCW.

The measure was read the second time.

MOTION

Senator Jacobsen moved that the following committee  
striking amendment by the Committee on Ways & Means be  
adopted.

Strike everything after the enacting clause and insert the  
following:

"**Sec. 1.** RCW 77.15.050 and 1998 c 190 s 6 are each  
amended to read as follows:

(1) Unless the context clearly requires otherwise, as used in  
this chapter, "conviction" means:

- ~~(a) A final conviction in a state or municipal court;~~
- ~~(b) A failure to appear at a hearing to contest an infraction or criminal citation; or~~
- ~~(c) An unvacated forfeiture of bail paid as a final disposition for an offense ((or an unvacated forfeiture of bail or collateral deposited to secure the defendant's appearance in court)).~~

(2) A plea of guilty, or a finding of guilt for a violation of  
this title or rule of the commission or director constitutes a  
conviction regardless of whether the imposition of sentence is  
deferred or the penalty is suspended.

"**Sec. 2.** RCW 77.15.700 and 2007 c 163 s 2 are each  
amended to read as follows:

(1) The department shall impose revocation and suspension  
of privileges in the following circumstances:

~~((1))~~ (a) Upon conviction, if directed by statute for an  
offense~~((:))~~.

~~((2))~~ (b) Upon conviction of a violation not involving  
commercial fishing, if the department finds that actions of the  
defendant demonstrated a willful or wanton disregard for  
conservation of fish or wildlife. ~~((Such))~~ Suspension of  
privileges under this subsection may be permanent. ~~((This  
subsection (2) does not apply to violations involving  
commercial fishing.~~

~~((3))~~ (c) If a person is convicted twice within ten years for a  
violation involving unlawful hunting, killing, or possessing big  
game~~((, the department shall order))~~. Revocation and  
suspension ~~((of))~~ under this subsection must be ordered for all  
hunting privileges for two years. ~~((RCW 77.12.722 or  
77.16.050 as it existed before June 11, 1998, may comprise one  
of the convictions constituting the basis for revocation and  
suspension under this subsection;~~

~~((4(a)))~~ (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  
uncontested notice of infraction~~((:))~~; (iii) fails to appear at a  
hearing to contest ~~((am))~~ a fish and wildlife infraction~~((:))~~; or (iv)  
is found to have committed an infraction ~~((three times in ten  
years involving any violation of recreational hunting or fishing  
laws or rules, the department shall order a))~~. Revocation and  
suspension under this subsection must be ordered of all  
recreational hunting and fishing privileges for two years.

~~((b))~~ (2)(a) A violation punishable as an infraction counts  
towards the revocation and suspension of recreational hunting

and fishing privileges ~~((only where))~~ 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 ~~((1) or (2))~~; WAC 220-56-116; WAC  
220-56-315(11); or WAC 220-56-355 (1) through (4).

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

~~((5))~~ (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, except for a violation of RCW 77.15.400 (1) through  
(3), the department may revoke all hunting licenses and tags and  
may order a suspension of ~~((one))~~ either or both the deferred  
education licensee's and the nondeferred accompanying person's  
hunting privileges for one year.

"**Sec. 3.** RCW 77.15.310 and 2003 c 39 s 38 are each  
amended to read as follows:

(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  
~~((77.55.040 or 77.55.320))~~ 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.

"**Sec. 4.** RCW 77.15.320 and 2000 c 107 s 241 are each  
amended to read as follows:

(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 ~~((77.55.060))~~ 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.

"**Sec. 5.** RCW 77.15.610 and 1998 c 190 s 33 are each  
amended to read as follows:

(1) A person who holds a fur buyer's license or taxidermy  
license is guilty of unlawful use of a commercial wildlife license  
if the person:

(a) Fails to have the license in possession while engaged in  
fur buying or practicing taxidermy for commercial purposes; or

(b) Violates any rule of the department regarding reporting  
requirements or the use, possession, display, or presentation of  
the taxidermy or fur buyer's license.

(2) Unlawful use of a commercial wildlife license is a  
misdemeanor.

"**Sec. 6.** RCW 77.32.470 and 2008 c 35 s 1 are each  
amended to read as follows:

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(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 thirty-six dollars for residents, seventy-two 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 eighteen dollars for residents, thirty-six 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 dollars for residents, forty dollars for nonresidents, and five dollars for resident seniors.

(3)(a) A temporary combination fishing license is valid for one to five 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 - Seven dollars for residents and fourteen dollars for nonresidents;

(ii) Two days - Ten dollars for residents and twenty dollars for nonresidents;

(iii) Three days - Thirteen dollars for residents and twenty-six dollars for nonresidents;

(iv) Four days - Fifteen dollars for residents and thirty dollars for nonresidents; and

(v) Five days - Seventeen dollars for residents and thirty-four dollars for nonresidents.

(b) The fee for a charter stamp is seven 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) A transaction fee to support the automated licensing system will be taken from the amounts set forth in this subsection for temporary licenses.

(d) 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.

(e) 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 provide a valid military identification card at the time of purchase of the temporary license to qualify for the resident rate.

(f) 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 state wildlife account created in RCW 77.12.170 and used for the operation and maintenance of state-owned fish hatcheries. The fee for a two-pole stamp is twenty dollars for residents and nonresidents, and five dollars for resident seniors.

**Sec. 7.** RCW 77.65.010 and 2005 c 20 s 1 are each amended to read as follows:

(1) Except as otherwise provided by this title, a person ~~((may not))~~ must have a license or permit issued by the director in order to engage in any of the following activities ((without a license or permit issued by the director)):

(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 processing or wholesaling food fish or shellfish; or

(e) Act as a food fish guide ((for salmon)) for personal use in freshwater rivers and streams, ~~((other than that part of the Columbia river below the bridge at Longview))~~ 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 or permits 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 or permit 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 or permit requirements established by this subsection applies only if the aquatic products are identified in conformance with those rules.

**Sec. 8.** RCW 77.65.370 and 1998 c 190 s 98 are each amended to read as follows:

(1) A person shall not offer or perform the services of a ~~((professional salmon))~~ food fish guide without a food fish guide license in the taking of ~~((salmon))~~ food fish for personal use in freshwater rivers and streams, ~~((other than in that part of the Columbia river below the bridge at Longview, without a professional salmon guide license))~~ 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) Only an individual at least sixteen years of age may hold a ~~((professional salmon))~~ food fish guide license. No individual may hold more than one ~~((professional salmon))~~ food fish guide license.

**Sec. 9.** RCW 77.65.440 and 2000 c 107 s 55 are each amended to read as follows:

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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 (RCW 77.95.090 Surchage)	Annual Fee		Governing Section
	Resident	Nonresident	
(1) Alternate Operator	\$ 35	\$ 35	RCW 77.65.130
(2) Geoduck Diver	\$185	\$295	RCW 77.65.410
(3) <del>((Salmon))</del> <u>Food Fish Guide</u>	\$130	\$630	RCW 77.65.370

(plus \$20) (plus \$100)

**Sec. 10.** RCW 77.15.510 and 2001 c 253 s 43 are each amended to read as follows:

(1) A person is guilty of ~~((commercial))~~ acting as a game fish ((guiding)) 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 ~~((professional salmon))~~ food fish guide and does not hold a ((professional salmon)) food fish guide license; or

(c) The person acts as a game fish guide and does not hold a game fish guide license.

(2) ~~((Commercial))~~ Acting without a game fish ((guiding or chartering without a)) guide license, food fish guide license, or charter license is a gross misdemeanor.

**Sec. 11.** RCW 77.65.480 and 1991 sp.s. c 7 s 4 are each amended to read as follows:

(1) A taxidermy license allows the holder to practice taxidermy for ~~((profit))~~ commercial purposes, as that term is defined in RCW 77.15.110. The fee for this license is one hundred eighty dollars.

(2) A fur dealer's license allows the holder to purchase, receive, or resell raw furs for ~~((profit))~~ commercial purposes, as that term is defined in RCW 77.15.110. The fee for this license is one hundred eighty dollars.

(3) A ~~((fishing))~~ game fish guide license allows the holder to offer or perform the services of a ((professional)) game fish guide in the taking of game fish. The fee for this license is one hundred eighty dollars for a resident and six hundred dollars for a nonresident.

(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.

(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.

(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.

(7)~~(a)~~ An anadromous game fish buyer's license allows the holder to purchase or sell steelhead trout and other anadromous game fish harvested by Indian ((fishermen)) fishers lawfully exercising fishing rights reserved by federal statute, treaty, or executive order, under conditions prescribed by rule of the director. The fee for this license is one hundred eighty dollars.

(b) An anadromous game fish buyer's license is not required for those businesses that buy steelhead trout and other anadromous game fish from Washington licensed game fish dealers and sell solely at retail.

**Sec. 12.** RCW 77.08.010 and 2008 c 277 s 2 are each amended to read as follows:

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 hand-held line operated without rod or reel.

(2) "Aquatic invasive species" means any invasive, prohibited, regulated, unregulated, or unlisted aquatic animal or plant species as defined under subsections ~~((48) through (53))~~ (3), (28), (40), (44), (58), and (59) of this section, aquatic noxious weeds as defined under RCW 17.26.020(5)(c), and aquatic nuisance species as defined under RCW 77.60.130(1).

(3) "Aquatic plant species" means an emergent, submersed, partially submersed, free-floating, or floating-leaving plant species that grows in or near a body of water or wetland.

(4) "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.

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

(6) "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.

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

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

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

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

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

(12) "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.

~~((+2))~~ (13) "Department" means the department of fish and wildlife.

~~((+3))~~ (14) "Director" means the director of fish and wildlife.

~~((+4))~~ (15) "Endangered species" means wildlife designated by the commission as seriously threatened with extinction.

~~((+5))~~ (16) "Ex officio fish and wildlife officer" means a commissioned officer of a municipal, county, state, or federal agency having as its primary function the enforcement of criminal laws in general, while the officer is in the appropriate jurisdiction. The term "ex officio fish and wildlife officer" includes special agents of the national marine fisheries service, state parks commissioned officers, United States fish and wildlife special agents, department of natural resources enforcement officers, and United States forest service officers, while the agents and officers are within their respective jurisdictions.

~~((+6))~~ (17) "Fish" includes all species classified as game fish or food fish by statute or rule, as well as all fin fish 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.



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~~((17))~~ (18) "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.

~~((18))~~ (19) "Fish broker" means a person whose business it is to bring a seller of fish and shellfish and a purchaser of those fish and shellfish together.

~~(20)~~ (20) "Fishery" means the taking of one or more particular species of fish or shellfish with particular gear in a particular geographical area.

~~((19))~~ (21) "Freshwater" means all waters not defined as saltwater including, but not limited to, rivers upstream of the river mouth, lakes, ponds, and reservoirs.

~~((20))~~ (22) "Fur-bearing animals" means game animals that shall not be trapped except as authorized by the commission.

~~((21))~~ (23) "Game animals" means wild animals that shall not be hunted except as authorized by the commission.

~~((22))~~ (24) "Game birds" means wild birds that shall not be hunted except as authorized by the commission.

~~((23))~~ (25) "Game farm" means property on which wildlife is held or raised for commercial purposes, trade, or gift. The term "game farm" does not include publicly owned facilities.

~~((24))~~ (26) "Game reserve" means a closed area where hunting for all wild animals and wild birds is prohibited.

~~((25))~~ (27) "Illegal items" means those items unlawful to be possessed.

~~(28)~~ (28) "Invasive species" means a plant species or a nonnative animal species that either:

(a) Causes or may cause displacement of, or otherwise threatens, native species in their natural communities;

(b) Threatens or may threaten natural resources or their use in the state;

(c) Causes or may cause economic damage to commercial or recreational activities that are dependent upon state waters; or

(d) Threatens or harms human health.

~~((26))~~ (29) "License year" means the period of time for which a recreational license is valid. The license year begins April 1st, and ends March 31st.

~~((27))~~ (30) "Limited-entry license" means a license subject to a license limitation program established in chapter 77.70 RCW.

~~((28))~~ (31) "Money" means all currency, script, personal checks, money orders, or other negotiable instruments.

~~(32)~~ (32) "Nonresident" means a person who has not fulfilled the qualifications of a resident.

~~((29))~~ (33) "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.

~~((30))~~ (34) "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, harvest, or possess by rule of the commission. "Open season" includes the first and last days of the established time.

~~((31))~~ (35) "Owner" means the person in whom is vested the ownership dominion, or title of the property.

~~(36)~~ (36) "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.

~~((32))~~ (37) "Personal use" means for the private use of the individual taking the fish or shellfish and not for sale or barter.

~~((33))~~ (38) "Personal property" or "property" includes both corporeal and incorporeal personal property and includes, among other property, contraband and money.

~~(39)~~ (39) "Predatory birds" means wild birds that may be hunted throughout the year as authorized by the commission.

~~((34))~~ (40) "Prohibited aquatic animal species" means an invasive species of the animal kingdom that has been classified as a prohibited aquatic animal species by the commission.

~~((35))~~ (41) "Protected wildlife" means wildlife designated by the commission that shall not be hunted or fished.

~~((36))~~ (42) "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.

~~((37))~~ (43) "Recreational and commercial watercraft" includes the boat, as well as equipment used to transport the boat, and any auxiliary equipment such as attached or detached outboard motors.

~~((38))~~ (44) "Regulated aquatic animal species" means a potentially invasive species of the animal kingdom that has been classified as a regulated aquatic animal species by the commission.

~~((39))~~ (45) "Resident" means:

(a) A 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, and who is not licensed to hunt or fish as a resident in another state; and

(b) A person age eighteen or younger who does not qualify as a resident under (a) of this subsection, but who has a parent that qualifies as a resident under (a) of this subsection.

~~((40))~~ (46) "Retail-eligible species" means commercially harvested salmon, crab, and sturgeon.

~~((41))~~ (47) "Saltwater" means those marine waters seaward of river mouths.

~~((42))~~ (48) "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.

~~((43))~~ (49) "Senior" means a person seventy years old or older.

~~((44))~~ (50) "Shellfish" means those species of marine and freshwater invertebrates that have been classified and that shall not be taken except as authorized by rule of the commission. The term "shellfish" includes all stages of development and the bodily parts of shellfish species.

~~((45))~~ (51) "State waters" means all marine waters and fresh waters within ordinary high water lines and within the territorial boundaries of the state.

~~((46))~~ (52) "To fish," "to harvest," and "to take," and their derivatives means an effort to kill, injure, harass, or catch a fish or shellfish.

~~((47))~~ (53) "To hunt" and its derivatives means an effort to kill, injure, capture, or harass a wild animal or wild bird.

~~((48))~~ (54) "To process" and its derivatives mean preparing or preserving fish, wildlife, or shellfish.

~~((49))~~ (55) "To trap" and its derivatives means a method of hunting using devices to capture wild animals or wild birds.

~~((50))~~ (56) "Trafficking" means offering, attempting to engage, or engaging in sale, barter, or purchase of fish, shellfish, wildlife, or deleterious exotic wildlife.

~~((51))~~ (57) "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.

~~(58)~~ (58) "Unlisted aquatic animal species" means a nonnative animal species that has not been classified as a prohibited aquatic animal species, a regulated aquatic animal species, or an unregulated aquatic animal species by the commission.

~~((52))~~ (59) "Unregulated aquatic animal species" means a nonnative animal species that has been classified as an unregulated aquatic animal species by the commission.

~~((53))~~ (60) "Wholesale fish dealer" means a person who, acting for commercial purposes, takes possession or ownership of fish or shellfish and sells, barter, or exchanges or attempts to sell, barter, or exchange fish or shellfish that have been landed into the state of Washington or entered the state of Washington in interstate or foreign commerce.

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

~~((54))~~ (62) "Wild birds" means those species of the class Aves whose members exist in Washington in a wild state.

~~((55))~~ (63) "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.

~~((56))~~ (64) "Youth" means a person fifteen years old for fishing and under sixteen years old for hunting.

**Sec. 13.** RCW 77.12.170 and 2005 c 418 s 3, 2005 c 225 s 4, 2005 c 224 s 4, and 2005 c 42 s 4 are each reenacted and amended to read as follows:

(1) There is established in the state treasury the state wildlife account which 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, and the sale of licenses, permits, tags, and stamps required by chapter 77.32 RCW and RCW 77.65.490, except annual resident adult saltwater and all annual razor clam and shellfish licenses, which shall be deposited into the state general fund;

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

(e) Fees for personalized vehicle, Wild on Washington, and Endangered Wildlife license plates and Washington's Wildlife license plate collection as provided in chapter 46.16 RCW;

(f) Articles or wildlife sold by the director under this title;

(g) Compensation for damage to department property or wildlife losses or contributions, gifts, or grants received under RCW 77.12.320. 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 pursuant to RCW 77.15.425;

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

~~(i) ((The sale of personal property seized by the department for fish, shellfish, or wildlife violations;~~

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

~~((k))~~ (j) The sale of watchable wildlife decals under RCW 77.32.560.

(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 state wildlife account.

**NEW SECTION. Sec. 14.** A new section is added to chapter 77.15 RCW to read as follows:

(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) Permits covered under subsection (1) of this section include, but are not limited to, master hunter permits, 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. Permits excluded from subsection (1) of this section include fish and wildlife lands vehicle use permits, commercial use or activity permits, noncommercial use or activity permits, parking permits, experimental fishery permits, trial commercial fishery permits, and scientific collection permits.

(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.

**NEW SECTION. Sec. 15.** A new section is added to chapter 77.32 RCW to read as follows:

(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 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

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the funds must be used exclusively to administer the master hunter program.

**NEW SECTION. Sec. 16.** A new section is added to chapter 77.15 RCW to read as follows:

(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.

**Sec. 17.** RCW 77.15.370 and 2005 c 406 s 3 are each amended to read as follows:

(1) A person is guilty of unlawful recreational fishing in the first degree if:

(a) The person takes, possesses, or retains 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, possessed, or retained 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 rule of the commission or director; ~~((or))~~

(d) The person fishes for or possesses a fish listed as threatened or endangered in 50 C.F.R. Sec. 17.11 (2002), unless fishing for or possession of such fish is specifically allowed under federal or state law; or

(e) The person possesses a sturgeon measuring in excess of the maximum size limit as established by rules adopted by the department.

(2) Unlawful recreational fishing in the first degree is a gross misdemeanor.

**Sec. 18.** RCW 77.15.425 and 2006 c 148 s 2 are each amended to read as follows:

The fish and wildlife enforcement reward account is created in the custody of the state treasurer. ~~((All receipts from criminal~~

~~wildlife penalty assessments under RCW 77.15.420 and 77.15.400 must be deposited into the account.)) 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 RCW 77.15.400 and 77.15.420; 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 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.~~

**Sec. 19.** RCW 77.15.568 and 2007 c 337 s 4 are each amended to read as follows:

(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 or holds fish or shellfish for another in exchange for valuable consideration, ships fish or shellfish in exchange for valuable consideration, or brokers fish or shellfish in exchange for valuable consideration;

(b) The fish or shellfish were required to be entered on a Washington fish receiving ticket or a Washington aquatic farm production annual report; 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 the location where the fish or shellfish are being sold, at the location where the fish or shellfish are being stored or held, or at the principal place of business of the shipper or broker.

(2) This section ~~((does not apply))~~ applies to a wholesale fish dealer ~~((:))~~ acting in the capacity of a broker. However, this section does not apply to a wholesale fish dealer acting in the capacity of a wholesale fish dealer, to a fisher selling under a direct retail sale endorsement, or to a registered aquatic farmer.

(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 must include the following:

(a) The name, address, and phone number of the wholesale fish dealer, fisher selling under a direct retail sale endorsement, or aquatic farmer or shellstock shipper from whom the fish or shellfish were purchased or received;

(b) The Washington fish receiving ticket number documenting original receipt or aquatic farm production quarterly report documenting production, if available;

(c) The date of purchase or receipt; and

(d) The amount and species of fish or shellfish purchased or received.

(5) Records maintained by persons that store, hold, or ship fish or shellfish for others must state the following:

(a) The name, address, and phone number of the person and business from whom the fish or shellfish were received;

- (b) The date of receipt; and
- (c) The amount and species of fish or shellfish received.

(6) A secondary commercial fish receiver's failure to account for commercial harvest is a misdemeanor.

**Sec. 20.** RCW 77.15.620 and 2002 c 301 s 7 are each amended to read as follows:

(1) A person is guilty of engaging in fish dealing activity without a license in the second degree if the person:

(a) Engages in the commercial processing of fish or shellfish, including custom canning or processing of personal use fish or shellfish and does not hold a wholesale dealer's license required by RCW 77.65.280(1) or 77.65.480 for anadromous game fish, or a direct retail endorsement under RCW 77.65.510;

(b) Engages in the wholesale selling, buying, or brokering of food fish or shellfish and does not hold a wholesale dealer's or buying license required by RCW 77.65.280(2) or 77.65.480 for anadromous game fish;

(c) Is a fisher who lands and sells his or her catch or harvest in the state to anyone other than a licensed wholesale dealer within or outside the state and does not hold a direct retail endorsement required by RCW 77.65.510; or

(d) Engages in the commercial manufacture or preparation of fertilizer, oil, meal, caviar, fish bait, or other byproducts from food fish or shellfish and does not hold a wholesale dealer's license required by RCW 77.65.280(4) or 77.65.480 for anadromous game fish.

(2) Engaging in fish dealing activity without a license in the second degree is a gross misdemeanor.

(3) 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: (a) Fish or shellfish worth two hundred fifty dollars or more; (b) a failure to document such fish or shellfish with a fish receiving ticket or other documentation required by statute or rule of the department; or (c) violates any other rule of the department regarding wholesale fish buying and dealing. Engaging in fish dealing activity without a license in the first degree is a class C felony.

**Sec. 21.** RCW 77.12.870 and 2002 c 20 s 3 are each amended to read as follows:

(1) The department, in consultation with the Northwest straits commission, the department of natural resources, and other interested parties, must create and maintain a database of known derelict fishing gear, including the type of gear and its location.

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

~~((3) The department, in consultation with fishing industry groups and tribal comanagers, must evaluate methods to reduce future losses of fishing gear and report the results of this evaluation to the appropriate legislative committees by January 1, 2003.))~~

**Sec. 22.** RCW 77.12.879 and 2007 c 350 s 3 are each amended to read as follows:

(1) The aquatic invasive species prevention account is created in the state treasury. Moneys directed to the account from RCW 88.02.050 must be deposited in the account. Expenditures from the account may only be used as provided in this section. Moneys in the account may be spent only after appropriation.

(2) Funds in the aquatic invasive species prevention account may be appropriated to the department to develop an aquatic invasive species prevention program for recreational and commercial watercraft. Funds must be expended as follows:

- (a) To inspect recreational and commercial watercraft;

(b) To educate general law enforcement officers on how to enforce state laws relating to preventing the spread of aquatic invasive species;

(c) To evaluate and survey the risk posed by recreational and commercial watercraft in spreading aquatic invasive species into Washington state waters;

(d) To evaluate the risk posed by float planes in spreading aquatic invasive species into Washington state waters; and

(e) To implement an aquatic invasive species early detection and rapid response plan. The plan must address the treatment and immediate response to the introduction to Washington waters of aquatic invasive species. Agency and public review of the plan must be conducted under chapter 43.21C RCW, the state environmental policy act. If the implementation measures or actions would have a probable significant adverse environmental impact, a detailed statement under chapter 43.21C RCW must be prepared on the plan.

(3) Funds in the aquatic invasive species enforcement account created in RCW 43.43.400 may be appropriated to the department and Washington state patrol to develop an aquatic invasive species enforcement program for recreational and commercial watercraft. The department shall provide training to Washington state patrol employees working at port of entry weigh stations, and other local law enforcement employees, on how to inspect recreational and commercial watercraft for the presence of aquatic invasive species. A person who enters Washington transporting any commercial or recreational watercraft that has been used in any designated aquatic invasive species state or foreign country as defined by rule of the department must have in his or her possession valid documentation that the watercraft has been inspected and found free of aquatic invasive species. The department is authorized to require persons transporting recreational and commercial watercraft to stop at check stations. Check stations must be plainly marked by signs, operated by at least one uniformed fish and wildlife officer, and operated in a safe manner. Any person stopped at a check station who possesses a recreational or commercial watercraft that has been used in any designated aquatic invasive species state or foreign country as defined by rule of the department, or that is contaminated with aquatic invasive species, must bear the expense for any necessary impoundment, transportation, cleaning, and decontamination of the watercraft. Any person stopped at a check station who possesses a recreational or commercial watercraft that has been used in any designated aquatic invasive species state or foreign country as defined by rule of the department, or that is contaminated with aquatic invasive species, is exempt from the criminal penalties found in RCW 77.15.253 and 77.15.290, and forfeiture under RCW 77.15.070, if that person complies with all department directives for the proper decontamination of the watercraft and equipment.

(4) The department shall submit a biennial report to the appropriate legislative committees describing the actions taken to implement this section along with suggestions on how to better fulfill the intent of chapter 464, Laws of 2005. ~~((The first report is due December 1, 2007.))~~

**Sec. 23.** RCW 77.60.150 and 2001 c 273 s 1 are each amended to read as follows:

(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 ~~((4))~~ (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

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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 shall submit a brief progress report on the status of the pilot programs to the appropriate standing committees of the legislature by January 7, 2003.~~

~~(4))~~ 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 ~~((79.96.090))~~ 79.135.300. Vacation of state oyster reserves by the department ~~((of fish and wildlife))~~ 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 of ~~((fish and wildlife))~~ may not assess charges to recover the costs of consulting with the department of natural resources under this subsection.

~~((5))~~ (4) The Puget Sound pilot program shall not include the culture of geoduck.

**Sec. 24.** RCW 77.85.230 and 2003 c 391 s 5 are each amended to read as follows:

(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 saltwater 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.

**Sec. 25.** RCW 77.85.050 and 2005 c 309 s 6 are each amended to read as follows:

(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 identify 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))~~ salmon recovery funding board in accordance with procedures adopted by the board.

**Sec. 26.** RCW 77.120.030 and 2007 c 350 s 10 are each amended to read as follows:

(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

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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 ~~((the ballast water work group, or similar))~~ 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 ~~((state))~~, 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.

**Sec. 27.** RCW 77.120.110 and 2007 c 350 s 14 are each amended to read as follows:

(1) The ballast water 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) Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only to carry out the purposes of this chapter or support the goals of this chapter through research and monitoring except:

(a) Expenditures may not be used for the salaries of permanent department employees; and

(b) Penalties deposited into the account may be used ~~((in consultation with the ballast water work group created in section~~

~~11 of this act))~~ only to support basic and applied research and carry out education and outreach related to the state's ballast water management.

**Sec. 28.** RCW 77.120.120 and 2007 c 350 s 15 are each amended to read as follows:

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. ~~((Such testing and research shall be reviewed by the ballast water work group, who may make recommendations to the department.))~~ 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.

**Sec. 29.** RCW 77.95.200 and 1998 c 251 s 2 are each amended to read as follows:

(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 ~~((completed by July 1, 1999, and))~~ updated annually ~~((thereafter)).~~

(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. ~~((The director and the secretary of the department of corrections shall jointly investigate the potential of producing remote site incubators through the prison industries program of the department of corrections, and shall jointly report their finding to the natural resources committees of the house of representatives and the senate by December 1, 1999.))~~

(5) The department shall investigate the use of the remote site incubator technology for the production of warm water fish.

(6) ~~((The department shall evaluate the initial results of the program and report to the legislature by December 1, 2000.))~~ Annual reports on the progress of the program shall be provided to the fish and wildlife commission.

**Sec. 30.** RCW 77.95.310 and 1997 c 414 s 1 are each amended to read as follows:

~~((Beginning September 1, 1998, and each September 1st thereafter.))~~ (1) The department shall ~~((submit))~~ maintain a report ~~((to the appropriate standing committees of the legislature))~~ identifying ~~((the))~~ total salmon and steelhead harvest ~~((of the preceding season))~~. 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;

~~((2))~~ (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

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((3)) (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.

**Sec. 31.** RCW 77.12.184 and 2000 c 252 s 1 are each amended to read as follows:

(1) The department shall deposit all moneys received from the following activities into the state wildlife ((fund)) account created in RCW 77.12.170:

(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.

**Sec. 32.** RCW 77.12.190 and 1991 sp.s. c 31 s 17 are each amended to read as follows:

Moneys in the state wildlife ((fund)) 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.

**Sec. 33.** RCW 77.12.210 and 2000 c 107 s 218 are each amended to read as follows:

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 state wildlife ((fund)) account created in RCW 77.12.170: 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 state wildlife ((fund)) account created in RCW 77.12.170.

**Sec. 34.** RCW 77.12.230 and 1987 c 506 s 32 are each amended to read as follows:

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 state wildlife ((fund)) account created in RCW 77.12.170 to the department.

**Sec. 35.** RCW 77.12.323 and 1987 c 506 s 42 are each amended to read as follows:

(1) There is established in the state wildlife ((fund)) account created in RCW 77.12.170 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 director may advise the state treasurer and the state investment board of a surplus in the special wildlife account above the current needs. The state investment board may invest and reinvest the surplus, as the commission deems appropriate, in an investment authorized by RCW 43.84.150 or in securities issued by the United States government as defined by RCW 43.84.080 (1) and (4). Income received from the investments shall be deposited to the credit of the special wildlife account.

**Sec. 36.** RCW 77.12.380 and 1987 c 506 s 44 are each amended to read as follows:

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 state wildlife ((fund)) account created in RCW 77.12.170 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.

**Sec. 37.** RCW 77.12.390 and 1987 c 506 s 45 are each amended to read as follows:

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 state wildlife ((fund)) account created in RCW 77.12.170 in favor of the fund for which the withdrawn lands are held.

**Sec. 38.** RCW 77.12.690 and 1998 c 245 s 158 and 1998 c 191 s 33 are each reenacted and amended to read as follows:

The migratory waterfowl art committee is responsible for the selection of the annual migratory bird stamp design and shall provide the design to the department. If the committee does not perform this duty within the time frame necessary to achieve proper and timely distribution of the stamps to license dealers, the director shall initiate the art work selection for that year. The committee shall create collector art prints and related artwork, utilizing the same design as provided to the department. 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 migratory waterfowl art committee.

The total amount brought in from the sale of prints and related artwork shall be deposited in the state wildlife ((fund)) account created in RCW 77.12.170. The costs of producing and marketing of prints and related artwork, including administrative expenses mutually agreed upon by the committee and the director, 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

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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.

The migratory waterfowl art committee shall have an annual audit of its finances conducted by the state auditor and shall furnish a copy of the audit to the commission.

**Sec. 39.** RCW 77.15.100 and 2000 c 107 s 235 are each amended to read as follows:

(1) Unless otherwise provided in this title, fish, shellfish, or wildlife unlawfully taken or possessed, or involved in a violation shall be forfeited to the state upon conviction. Unless already held by, sold, destroyed, or disposed of by the department, the court shall order such fish or wildlife to be delivered to the department. Where delay will cause loss to the value of the property and a ready wholesale buying market exists, the department may sell property to a wholesale buyer at a fair market value.

(2) When seized property is forfeited to the department, 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 the property to the agency for the use of enforcing this title, or sell such property and deposit the proceeds into the ~~(state wildlife fund)~~ fish and wildlife enforcement reward account established under RCW ~~((77.12.170))~~ 77.15.425. Any sale of other property shall be at public auction or after public advertisement reasonably designed to obtain the highest price. The time, place, and manner of holding the sale shall be determined by the director. The director may contract for the sale to be through the department of general administration as state surplus property, or, except where not justifiable by the value of the property, the director shall publish notice of the sale once a week for at least two consecutive weeks before the sale in at least one newspaper of general circulation in the county in which the sale is to be held.

**Sec. 40.** RCW 77.32.430 and 2005 c 192 s 2 are each amended to read as follows:

(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. There is no charge for an initial catch record card. Each subsequent or duplicate catch record card costs ten 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 three dollars, including any or all fees authorized under RCW 77.32.050, when purchased for a personal use saltwater, combination, or shellfish and seaweed license. The endorsement shall cost no more than one dollar, including any or all fees authorized under RCW 77.32.050, 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 not 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) The department shall include provisions for recording marked and unmarked salmon in catch record cards issued after March 31, 2004.

(5) The funds received from the sale of catch record cards and the Dungeness crab endorsement must be deposited into the state wildlife ((fund)) account created in RCW 77.12.170. The funds received from the Dungeness crab endorsement may be used only for the sampling, monitoring, and management of catch associated with the Dungeness crab recreational fisheries. Moneys allocated under this section shall supplement and not supplant other federal, state, and local funds used for Dungeness crab recreational fisheries management.

**Sec. 41.** RCW 77.32.530 and 1996 c 101 s 5 are each amended to read as follows:

(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 ~~((fifteen))~~ 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 state wildlife ~~((fund))~~ account created in RCW 77.12.170. The revenues shall be used to improve ~~((the habitat, health, and welfare of the species auctioned or raffled))~~ game management and shall supplement, rather than replace, other funds budgeted for management of ~~((that))~~ 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.

**Sec. 42.** RCW 77.32.560 and 2003 c 317 s 2 are each amended to read as follows:

(1) The department may sell watchable wildlife decals. Proceeds from the sale of the decal must be deposited into the state wildlife ~~((fund))~~ account created in RCW 77.12.170 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



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wildlife activities. A person who purchases a watchable wildlife decal must be issued one vehicle use permit free of charge.

**Sec. 43.** RCW 77.44.050 and 1999 c 235 s 1 are each amended to read as follows:

The warm water game fish account is hereby created in the state wildlife ~~((fund))~~ account created in RCW 77.12.170. 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 replacement funding for department-operated warm water fish projects existing on December 31, 1994~~((except that an amount not to exceed ninety-one thousand dollars may be used for warm water fish culture at the Rod Mescberg warm water fish production facility during the biennium ending June 30, 2001)).~~

**NEW SECTION. Sec. 44.** 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.

**NEW SECTION. Sec. 45.** 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.

**NEW SECTION. Sec. 46.** 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.

**NEW SECTION. Sec. 47.** 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.

**NEW SECTION. Sec. 48.** (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.

**NEW SECTION. Sec. 49.** 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.

**NEW SECTION. Sec. 50.** Sections 44 through 49 of this act constitute a new chapter in Title 77 RCW.

**NEW SECTION. Sec. 51.** RCW 77.12.065 (Wildlife viewing tourism) and 2003 c 183 s 1 are each repealed.

**Sec. 52.** RCW 77.12.820 and 1997 c 422 s 5 are each amended to read as follows:

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. ~~((Not less than eighty percent of expenditures from the account must be used 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

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annual report to the appropriate committees of the legislature by December 1st regarding the department's eastern Washington pheasant activities.

**NEW SECTION. Sec. 53.** (1) The legislature finds that healthy wildlife populations are a valuable and treasured public resource to the people of the state of Washington. However, the legislature also finds that as the human population increases and encroaches on wildlife habitat, interactions between humans and wildlife will become more frequent.

(2) The legislature further finds that interactions between humans and wildlife can have significant financial impacts on the affected landowner. Although the resulting wildlife damage is felt most closely by the landowner, the general public, as beneficiaries and stewards of healthy wildlife populations, should bear some responsibility, as outlined in and limited by this act, for providing a measure of restitution to the impacted landowner, provided that the landowner has exhausted all legal, practicable self-help methods available to prevent wildlife damage from occurring.

(3) The legislature further finds that the commercial agriculture, horticulture, and livestock industries are important components of the state economy that can be negatively impacted by interactions with wildlife. However, the legislature also finds that other landowners, both commercial and residential, may be faced with wildlife interactions that result in property damage. It is the intent of the legislature to craft a solution whereby all property owners have a potential avenue to petition the state for some mitigation of the damages caused by wildlife.

(4) The legislature further finds that it is in the best interests of the state for the department of fish and wildlife to respond quickly to wildlife damage complaints and to work with those affected to prevent and minimize negative interactions while maintaining healthy wildlife populations.

(5) The legislature further finds that negative wildlife interactions can be best reduced by encouraging landowners to contribute, through their land management practices, to healthy wildlife populations and to provide access for related recreation.

**Sec. 54.** RCW 77.36.010 and 1996 c 54 s 2 are each amended to read as follows:

~~((Unless otherwise specified,))~~ The ~~((following))~~ 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 ~~((commercially raised))~~ horticultural ~~((and/or))~~ or agricultural product ~~((and includes))~~, including the growing or harvested product ~~((but does not include livestock))~~. For the purposes of this chapter all parts of horticultural trees shall be considered a commercial crop and shall be eligible for claims.

~~((2))~~ "Emergency" means an unforeseen circumstance beyond the control of the landowner or tenant that presents a real and immediate threat to crops, domestic animals, or fowl.)

(3) "Commercial livestock" means cattle, sheep, and horses held or raised by a person for sale.

(4) "Compensation" means a cash payment, materials, or service.

(5) "Damage" means economic losses caused by wildlife interactions.

(6) "Immediate family member" means spouse, state registered domestic partner, brother, sister, grandparent, parent, child, or grandchild.

(7) "Owner" means a person who has a legal right to commercial crops, commercial 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, commercial livestock, or other property.

**NEW SECTION. Sec. 55.** A new section is added to chapter 77.36 RCW to read as follows:

(1)(a) Except as limited by RCW 77.36.070 and 77.36.080, 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 commercial 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 commercial livestock has been diminished. Payments for claims for damage to commercial livestock are not subject to the limitations of RCW 77.36.070 and 77.36.080, but may not exceed the total amount specifically appropriated therefor.

(b) Owners of commercial crops or commercial livestock are only eligible for a claim under this subsection if:

(i) The owner satisfies the definition of "eligible farmer" in RCW 82.08.855;

(ii) The conditions of section 56 of this act have been satisfied; and

(iii) The damage caused to the commercial crop or commercial livestock satisfies the criteria for damage established by the commission under this subsection.

(c) The commission shall adopt and maintain by rule criteria that clarifies the damage to commercial crops and commercial livestock qualifying for compensation under this subsection. An owner of a commercial crop or commercial 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 commercial livestock, which may not be set at a value of less than five hundred dollars.

(2)(a) The department may offer to provide noncash compensation only to offset wildlife interactions to a person who applies to the department for compensation for damage to property other than commercial crops or commercial livestock that is the result of a mammalian or avian species of wildlife on a case-specific basis if the conditions of section 56 of this act have been satisfied and if the damage satisfies the criteria for damage established by the commission under this subsection.

(b) The commission shall adopt and maintain by rule criteria for damage to property other than a commercial crop or commercial 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 subsection.

(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.

**NEW SECTION. Sec. 56.** A new section is added to chapter 77.36 RCW to read as follows:

(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

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the use of nonlethal methods and department-provided materials and services when available under section 55 of this act; 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.

(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.

**NEW SECTION. Sec. 57.** A new section is added to chapter 77.36 RCW to read as follows:

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 section 55 of this act who is denied a claim or feels the compensation is insufficient; and

(10) Other policies necessary for administering this chapter.

**NEW SECTION. Sec. 58.** A new section is added to chapter 77.36 RCW to read as follows:

(1) Except as otherwise provided in this section and as limited by section 55 of this act and RCW 77.36.070 and 77.36.080, 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, except that, subject to appropriation to pay compensation for damage to commercial livestock, the value of killed or injured commercial livestock may be no more than two hundred dollars per sheep, one thousand five hundred dollars per head of cattle, and one thousand five hundred dollars per horse; 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 commercial livestock filing a claim under section 55 of this act only if the outcome of an appeal filed by the claimant under section 55 of this act 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 commercial livestock, belongs to the claimant.

**Sec. 59.** RCW 77.36.070 and 1996 c 54 s 8 are each amended to read as follows:

The department may pay no more than one hundred twenty thousand dollars per fiscal year from the state wildlife ((fund)) account created in RCW 77.12.170 for claims ((under RCW 77.36.040 and for assessment costs and compromise of claims. Such money shall be used to pay animal damage claims only if the claim meets the conditions of RCW 77.36.040 and the damage occurred in a place where the opportunity to hunt was not restricted or prohibited by a county, municipality, or other public entity during the season prior to the occurrence of the damage)) and assessment costs for damage to commercial crops caused by wild deer or elk submitted under section 55 of this act.

**Sec. 60.** RCW 77.36.080 and 1996 c 54 s 9 are each amended to read as follows:

(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 ((under RCW 77.36.040 and for assessment costs and compromise of claims unless the legislature declares an emergency. Such money shall be used to pay animal damage claims only if the claim meets the conditions of RCW 77.36.040 and the damage occurred in a place where the opportunity to hunt was restricted or prohibited by a county, municipality, or other public entity during the season prior to the occurrence of the damage)) and assessment costs for damage to commercial crops caused by wild deer or elk submitted under section 55 of this act.

(2)(a) The legislature may declare an emergency((defined for the purposes of this section as any happening arising from)) if weather, fire, or other natural ((conditions, or fire that causes unusually great)) events result in deer or elk causing excessive damage to ((commercially raised agricultural or horticultural)) commercial crops ((by deer or elk)). ((It))

(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 77.36.040 and for assessment and compromise of claims)) section 55 of this act. Such money shall be used to pay ((animal damage)) wildlife interaction claims only if the claim meets the conditions of ((RCW 77.36.040)) section 55 of this act and the department has expended all funds authorized under RCW 77.36.070 or subsection (1) of this section.

**Sec. 61.** RCW 77.36.030 and 1996 c 54 s 4 are each amended to read as follows:

(1) Subject to ((the following)) limitations and conditions established by the commission, the owner, the owner's

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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 ~~(wild animals or wild birds that are damaging crops, domestic animals, or fowl).~~

~~(a) Threatened or endangered species shall not be hunted, trapped, or killed;~~

~~(b) Except in an emergency situation, deer, elk, and protected wildlife shall not be killed without a permit issued and conditioned by the director or the director's designee. In an emergency, the department may give verbal permission followed by written permission to trap or kill any deer, elk, or protected wildlife that is damaging crops, domestic animals, or fowl; and~~

~~(c) On privately owned cattle ranching lands, the land owner or lessee may declare an emergency only when the department has not responded within forty-eight hours after having been contacted by the land owner or lessee regarding damage caused by wild animals or wild birds. In such an emergency, the owner or lessee may trap or kill any deer, elk, or other protected wildlife that is causing the damage but deer and elk may only be killed if such lands were open to public hunting during the previous hunting season, or the closure to public hunting was coordinated with the department to protect property and livestock).~~

~~(2) ((Except for coyotes and Columbian ground squirrels,)) 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 ((remain the property of the state, and the person trapping or killing the wildlife shall notify the department immediately. The department shall dispose of wildlife so taken within three days of receiving such a notification and in a manner determined by the director to be in the best interest of the state)).~~

~~(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.~~

NEW SECTION. Sec. 62. A new section is added to chapter 77.36 RCW to read as follows:

This chapter represents the exclusive remedy against the state for damage caused by wildlife interactions.

Sec. 63. RCW 77.12.240 and 1989 c 197 s 1 are each amended to read as follows:

(1) The ((director)) 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 ((director or other employees of 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 state wildlife ((fund)) account created in RCW 77.12.170.

NEW SECTION. Sec. 64. The fish and wildlife commission shall formally review the rules and policies adopted under sections 53 through 66 of this act. If, in the process of reviewing the rules, the fish and wildlife commission identifies recommended statutory changes related to the subject of sections 53 through 66 of this act and to the ability of the fish and wildlife commission to fulfill the intent of sections 53 through 66 of this act, those recommendations must be forwarded to the

appropriate policy committees of the legislature during the regularly scheduled 2014 legislative session.

NEW SECTION. Sec. 65. The following acts or parts of acts are each repealed:

(1) RCW 77.36.005 (Findings) and 1996 c 54 s 1;

(2) RCW 77.36.020 (Game damage control--Special hunt/remedial action) and 2003 c 385 s 1 & 1996 c 54 s 3;

(3) RCW 77.36.040 (Payment of claims for damages--Procedure--Limitations) and 1996 c 54 s 5;

(4) RCW 77.36.050 (Claimant refusal--Excessive claims) and 1996 c 54 s 6;

(5) RCW 77.36.060 (Claim refused--Posted property) and 1996 c 54 s 7; and

(6) RCW 77.12.260 (Agreements to prevent damage to private property) and 1987 c 506 s 34, 1980 c 78 s 43, & 1955 c 36 s 77.12.260.

NEW SECTION. Sec. 66. The following sections are each decodified:

RCW 77.36.900; and

RCW 77.36.901.

NEW SECTION. Sec. 67. Sections 53 through 66 of this act apply prospectively only and not retroactively. Sections 53 through 66 of this act apply only to claims that arise on or after July 1, 2010. Claims under chapter 77.36 RCW that arise prior to July 1, 2010, must be adjudicated under chapter 77.36 RCW as it existed prior to July 1, 2010.

NEW SECTION. Sec. 68. The fish and wildlife commission shall complete all initial rule-making activities that are required in order to allow sections 53 through 66 of this act to take effect on July 1, 2010.

NEW SECTION. Sec. 69. Sections 53 through 66 of this act take effect July 1, 2010.

NEW SECTION. Sec. 70. Section 64 of this act expires July 30, 2014.

Sec. 71. RCW 77.04.030 and 2001 c 155 s 1 are each amended to read as follows:

(1) The fish and wildlife commission consists of ((nine)) seven registered voters of the state. ((In January of each odd-numbered year.))

(2) The governor shall appoint commissioners, who must be registered voters, 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)). Commissioners serve for a term of four years.

(3) 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))

(4) The governor shall appoint commissioners representing the various geographic areas of the state. Specifically, one member must reside within the boundaries of each of the six administrative regions recognized by the department on the effective date of this section. One member shall be appointed at-large. No two members may be residents of the same county.

(5) The legal office of the commission is at the administrative office of the department in Olympia.

Sec. 72. RCW 77.04.060 and 1993 sp.s. c 2 s 63 are each amended to read as follows:

(1) 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)) three members. ((Five)) Four members constitute a quorum for the transaction of business.

(2) The commission ((at a meeting in each odd-numbered year)) shall elect one of its members as ((chairman)) chair and

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another member as ~~((vice chairman))~~ vice-chair, each of whom shall serve for a term of two years or until a successor is elected and qualified.

(3) 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.

**NEW SECTION. Sec. 73.** (1) In order to effectuate sections 71 and 72 of this act, on or before December 31, 2009, the governor shall appoint from the existing commissioners seven individuals to continue to serve on the commission.

(2) The governor shall appoint two members for a term ending January 1, 2011, two members for a term ending January 1, 2012, two members for a term ending January 1, 2013, and one member for a term ending January 1, 2014.

(3) Nothing in this section prohibits the governor from appointing a sitting commissioner whose position is considered vacated under subsection (1) of this section as a commissioner under subsection (2) of this section.

**Sec. 74.** RCW 43.17.020 and 2007 c 341 s 47 are each amended to read as follows:

There shall be a chief executive officer of each department to be known as: (1) The secretary of social and health services, (2) the director of ecology, (3) the director of labor and industries, (4) the director of agriculture, (5) the director of fish and wildlife, (6) the secretary of transportation, (7) the director of licensing, (8) the director of general administration, (9) the director of community, trade, and economic development, (10) the director of veterans affairs, (11) the director of revenue, (12) the director of retirement systems, (13) the secretary of corrections, (14) the secretary of health, (15) the director of financial institutions, (16) the director of the department of archaeology and historic preservation, (17) the director of early learning, and (18) the executive director of the Puget Sound partnership.

Such officers ~~((except the director of fish and wildlife))~~ shall be appointed by the governor, with the consent of the senate, and hold office at the pleasure of the governor. The director of fish and wildlife shall be appointed by the ~~((fish and wildlife commission as prescribed by RCW 77.04.055))~~ governor according to the procedure set forth in RCW 77.04.080.

**Sec. 75.** RCW 77.04.080 and 2000 c 107 s 205 are each amended to read as follows:

(1) Persons eligible for appointment as director shall have practical knowledge of the habits and distribution of fish and wildlife.

(2) Whenever the position of director is vacated, the governor must appoint a new director. The commission may advise the governor on this appointment. The appointment must be made with the consent of the senate. The director serves at the pleasure of the governor.

(3) 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.

(4) 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.

(5) The director shall receive the salary fixed by the governor under RCW 43.03.040.

(6) The director is the ex officio secretary of the commission and shall attend its meetings and keep a record of its business.

**Sec. 76.** RCW 77.04.055 and 2000 c 107 s 204 are each amended to read as follows:

(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))~~, which shall serve at the pleasure of the commission.

**Sec. 77.** RCW 77.04.013 and 1995 1st sp.s. c 2 s 1 are each amended to read as follows:

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 to advise the governor regarding appointment of 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.

**NEW SECTION. Sec. 78.** A new section is added to chapter 77.04 RCW to read as follows:

The commission must provide an opportunity for the public to provide oral and written comments at any regular or special meeting of the commission held pursuant to RCW 77.04.060. Additionally, at any open public meeting convened pursuant to chapter 42.30 RCW or any gathering open to the public for purposes of providing information to the public or accepting public input, the commission, department, or both must provide the public an opportunity to: Provide written comments; and provide oral comments to the commission, department, or both, while addressing all in attendance.

**Sec. 79.** RCW 77.32.050 and 2003 c 389 s 1 are each amended to read as follows:

(1) All recreational licenses, permits, tags, and stamps required by this title and raffle tickets authorized under chapter 77.12 RCW shall be issued under the authority of the

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commission. The commission shall adopt rules for the issuance of recreational licenses, permits, tags, stamps, and raffle tickets, and for the collection, payment, and handling of license fees, terms and conditions to govern dealers, and dealers' fees. A transaction fee on 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. Fees retained by dealers shall be uniform throughout the state. The department shall authorize dealers to collect and retain dealer fees of at least two dollars for purchase of a standard hunting or fishing recreational 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.

(2) For the 2009-2011 biennium, the department may authorize an additional transaction fee on recreational documents of no greater than ten percent of the cost of a recreational document issued under this section, including a recreational license, permit, tag, stamp, or raffle ticket. The transaction fees shall be deposited into the state wildlife account as created in RCW 77.12.170.

**NEW SECTION. Sec. 80.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

On page 1, line 2 of the title, after "wildlife;" strike the remainder of the title and insert "amending RCW 77.15.050, 77.15.700, 77.15.310, 77.15.320, 77.15.610, 77.32.470, 77.65.010, 77.65.370, 77.65.440, 77.15.510, 77.65.480, 77.08.010, 77.15.370, 77.15.425, 77.15.568, 77.15.620, 77.12.870, 77.12.879, 77.60.150, 77.85.230, 77.85.050, 77.120.030, 77.120.110, 77.120.120, 77.95.200, 77.95.310, 77.12.184, 77.12.190, 77.12.210, 77.12.230, 77.12.323, 77.12.380, 77.12.390, 77.15.100, 77.32.430, 77.32.530, 77.32.560, 77.44.050, 77.12.820, 77.36.010, 77.36.070, 77.36.080, 77.36.030, 77.12.240, 77.04.030, 77.04.060, 43.17.020, 77.04.080, 77.04.055, 77.04.013, and 77.32.050; reenacting and amending RCW 77.12.170 and 77.12.690; adding new sections to chapter 77.15 RCW; adding new sections to chapter 77.36 RCW; adding a new section to chapter 77.32 RCW; adding a new section to chapter 77.04 RCW; adding a new chapter to Title 77 RCW; creating new sections; decodifying RCW 77.36.900 and 77.36.901; repealing RCW 77.12.065, 77.36.005, 77.36.020, 77.36.040, 77.36.050, 77.36.060, and 77.12.260; prescribing penalties; providing an effective date; and providing an expiration date."

Senator Jacobsen spoke in favor of adoption of the committee striking amendment.

#### POINT OF ORDER

Senator Zarelli: "Thank you Mr. President. I rise to a point of order that senate amendment 2921.1 is beyond the scope and object of the bill. The substitute bill that passed the House dealt with enforcement and licensing issues governing the Department of Fish & Wildlife including some of the following; rules of the Fish & Wildlife Commission in the list of civulant fractions that can give rise to license revocation; changing the name, scope and jurisdiction of salmon guide licenses; allowing the use of two fishing poles per license holder for use on selected waters. The scope of this amendment that goes into 1778 goes far beyond dealing with enforcement and licensing issues and instead makes substantial changes to the structure of the Fish & Wildlife Commission itself by reducing the number and length of terms of commissioners, changing the geographical residency requirements of the commissioners and transferring the authority to appoint the director from the Commission to the Governor.

The idea of changing the structure of the Commission may seem familiar to this body at it was similar to language including in Senate Bill No. 5127 that did not pass House committee deadline. Altering the structure of the Fish & Wildlife Commission however is an entirely different subject from the Department of Fish & Wildlife enforcement or licensing authority as a result 5127 was inappropriately revived in this amendment. Mr. President, to change the structure of the Commission in this amendment is beyond the scope and object of Substitute House Bill No. 1778 and I respectfully request that you rule accordingly."

#### REMARKS BY SENATOR JACOBSEN

Senator Jacobsen: "Thank you Mr. President. I assert the striking amendment to Substitute House Bill No. 1778 is squarely within the scope and object of the underlying bill. The underlying bill is an omnibus bill designed to modernize provisions of Title 77 regarding Fish & Wildlife. When this bill came over from the House the bill dealt broadly with fish & wildlife resource management and the operation of Department of Fish & Wildlife including, I'll be glad to submit all the options in writing, and that such as the underlying omnibus substitute house bill makes changes throughout the fish & wildlife statutes that dealt with the very duties of the department as well as the operation. The striking amendment deals with the management of fish & wildlife resources and the operations of Department of Fish & Wildlife like the underlying bill. Therefore, I respectfully request that you rule the striking amendment within the scope and object of the underlying bill. Thank you Mr. President."

#### MOTION

On motion of Senator Eide, further consideration of Substitute House Bill No. 1778 was deferred and the bill held its place on the second reading calendar.

#### SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1379, by House Committee on Local Government & Housing (originally sponsored by Representatives Seaquist, Angel and Liias)

Regarding moratoria and other interim official controls adopted under the shoreline management act.

The measure was read the second time.

#### MOTION

Senator Fraser moved that the following committee striking amendment by the Committee on Government Operations & Elections be adopted.

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature recognizes that cities and counties have moratoria authority granted through constitutional and statutory provisions and that this authority, when properly exercised, is an important aspect of complying with environmental stewardship and protection requirements.

Recognizing the fundamental role and value of properly exercised moratoria, the legislature intends to establish new moratoria procedures and to affirm moratoria authority that local governments have and may exercise and when implementing the shoreline management act.

**NEW SECTION. Sec. 2.** A new section is added to chapter 90.58 RCW to read as follows:

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(1) Local governments may adopt moratoria or other interim official controls as necessary and appropriate to implement this chapter.

(2)(a) A local government adopting a moratorium or control under this section must:

(i) Hold a public hearing on the moratorium or control;

(ii) Adopt detailed findings of fact that include, but are not limited to justifications for the proposed or adopted actions and explanations of the desired and likely outcomes;

(iii) Notify the department of the moratorium or control immediately after its adoption. The notification must specify the time, place, and date of any public hearing required by this subsection.

(b) The public hearing required by this section must be held within sixty days of the adoption of the moratorium or control.

(3) A moratorium or control adopted under this section may be effective for up to six months if a detailed work plan for remedying the issues and circumstances necessitating the moratorium or control is developed and made available for public review. A moratorium or control may be renewed for two six-month periods if the local government complies with subsection (2)(a) of this section before each renewal. If a moratorium or control is in effect on the date a proposed master program or amendment is submitted to the department, the moratorium or control must remain in effect until the department's final action under RCW 90.58.090; however, the moratorium expires six months after the date of submittal if the department has not taken final action.

(4) Nothing in this section may be construed to modify county and city moratoria powers conferred outside this chapter."

Senator Fraser spoke in favor of adoption of the committee striking amendment.

#### MOTION

Senator Fraser moved that the following amendment by Senator Fraser and others to the committee striking amendment be adopted.

On page 1, beginning on line 3 of the amendment, after "**Sec. 1.**" strike all material through "requirements." on line 7 and insert "The legislature recognizes that the state, counties, and cities have moratoria authority granted through constitutional and statutory provisions and that this authority, when properly exercised, is an important aspect of complying with environmental stewardship and protection requirements."

On page 2, after line 14 of the amendment, insert the following:

**"NEW SECTION. Sec. 3.** (1) The legislature finds that a special height moratorium is necessary along the shoreline known as the "Olympia Isthmus" located in the city of Olympia between Capitol Lake and Budd Inlet, which should hereinafter be designated a "shoreline of statewide significance."

(2) The legislature further finds that:

(a) The shoreline along Capitol Lake is part of the Heritage park area of the state capitol campus, in which the state of Washington has invested millions of dollars to improve and make available for statewide public use, education, and appreciation. It is also an important element of the scenic, historic vista northward from the capitol campus, in which the state of Washington and nonprofit organizations have invested millions of dollars to construct excellent public viewing opportunities of the north capitol campus and other sights of both statewide and national significance;

(b) The state of Washington is continuing to invest millions of dollars in water quality improvements along both Capitol Lake and Budd Inlet shorelines;

(c) The Olympia Isthmus as a whole is historically significant, fragile, and a major contributor to significant

changes to the natural estuary area of the area. The Olympia Isthmus was constructed by fill in early 1911, with the reflecting lake created in the 1950s when the dam was constructed at what is now called the Deschutes spillway;

(d) The vista is an integral part of the design of the state capitol campus. The state's founders sited the capitol campus in its location principally to take advantage of this expansive vista. The vista: Is representative of much of the physical characteristics of very large areas of the state; provides a visual and physical connection between the capitol and the Puget Sound; is inspirational; and promotes an appreciation of the scenic grandeur and rich natural resources of our state; and

(e) The Washington state capitol, together with its spectacular location, is a state and national treasure that has been passed down from one generation to another.

(3) The legislature intends that the Olympia Isthmus be declared to be a shoreline of statewide significance through the shoreline management act to advance the public interest and to protect public investments.

(4) This state and national treasure has been passed down from one generation to another. It includes public vistas of Budd Inlet, south Puget Sound, the Olympic mountains, and a broad range of forested hills.

(5) Therefore, it is the intent of the legislature to take steps to protect this state and national scenic and historic asset.

**Sec. 4.** RCW 90.58.030 and 2007 c 328 s 1 are each amended to read as follows:

As used in this chapter, unless the context otherwise requires, the following definitions and concepts apply:

(1) Administration:

(a) "Department" means the department of ecology;

(b) "Director" means the director of the department of ecology;

(c) "Local government" means any county, incorporated city, or town which contains within its boundaries any lands or waters subject to this chapter;

(d) "Person" means an individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of the state or local governmental unit however designated;

(e) "~~((Hearings))~~ Hearings board" means the ~~((shoreline))~~ shorelines hearings board established by this chapter.

(2) Geographical:

(a) "Extreme low tide" means the lowest line on the land reached by a receding tide;

(b) "Ordinary high water mark" on all lakes, streams, and tidal water is that mark 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 all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by a local government or the department: PROVIDED, That in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining salt water shall be the line of mean higher high tide and the ordinary high water mark adjoining fresh water shall be the line of mean high water;

(c) "Shorelines of the state" are the total of all "shorelines" and "shorelines of statewide significance" within the state;

(d) "Shorelines" means all of the water areas of the state, including reservoirs, and their associated shorelands, together with the lands underlying them; except (i) shorelines of statewide significance; (ii) shorelines on segments of streams upstream of a point where the mean annual flow is twenty cubic feet per second or less and the wetlands associated with such

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upstream segments; and (iii) shorelines on lakes less than twenty acres in size and wetlands associated with such small lakes;

(e) "Shorelines of statewide significance" means the following shorelines of the state:

(i) The area between the ordinary high water mark and the western boundary of the state from Cape Disappointment on the south to Cape Flattery on the north, including harbors, bays, estuaries, and inlets;

(ii) Those areas of Puget Sound and adjacent salt waters and the Strait of Juan de Fuca between the ordinary high water mark and the line of extreme low tide as follows:

(A) Nisqually Delta--from DeWolf Bight to Tatsolo Point,

(B) Birch Bay--from Point Whitehorn to Birch Point,

(C) Hood Canal--from Tala Point to Foulweather Bluff,

(D) Skagit Bay and adjacent area--from Brown Point to Yokeko Point, ~~(and)~~

(E) Padilla Bay--from March Point to William Point, and

(F) Budd Inlet--from the northwest extension of Capitol Waterway in Olympia to the Deschutes spillway, and including the historic shoreline of Budd Inlet contained in Capitol Lake from the Deschutes spillway to the southwest extension of Capitol Waterway;

(iii) Those areas of Puget Sound and the Strait of Juan de Fuca and adjacent salt waters north to the Canadian line and lying seaward from the line of extreme low tide;

(iv) Those lakes, whether natural, artificial, or a combination thereof, with a surface acreage of one thousand acres or more measured at the ordinary high water mark;

(v) Those natural rivers or segments thereof as follows:

(A) Any west of the crest of the Cascade range downstream of a point where the mean annual flow is measured at one thousand cubic feet per second or more,

(B) Any east of the crest of the Cascade range downstream of a point where the annual flow is measured at two hundred cubic feet per second or more, or those portions of rivers east of the crest of the Cascade range downstream from the first three hundred square miles of drainage area, whichever is longer;

(vi) Those shorelands associated with (i), (ii), (iv), and (v) of this subsection (2)(e);

(f) "Shorelands" or "shoreland areas" means those lands extending landward for two hundred feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward two hundred feet from such floodways; and all wetlands and river deltas associated with the streams, lakes, and tidal waters which are subject to the provisions of this chapter; the same to be designated as to location by the department of ecology.

(i) Any county or city may determine that portion of a one-hundred-year-flood plain to be included in its master program as long as such portion includes, as a minimum, the floodway and the adjacent land extending landward two hundred feet therefrom.

(ii) Any city or county may also include in its master program land necessary for buffers for critical areas, as defined in chapter 36.70A RCW, that occur within shorelines of the state, provided that forest practices regulated under chapter 76.09 RCW, except conversions to nonforest land use, on lands subject to the provisions of this subsection (2)(f)(ii) are not subject to additional regulations under this chapter;

(g) "Floodway" means the area, as identified in a master program, that either: (i) Has been established in federal emergency management agency flood insurance rate maps or floodway maps; or (ii) consists of those portions of a river valley lying streamward from the outer limits of a watercourse upon which flood waters are carried during periods of flooding that occur with reasonable regularity, although not necessarily annually, said floodway being identified, under normal condition, by changes in surface soil conditions or changes in types or quality of vegetative ground cover condition,

topography, or other indicators of flooding that occurs with reasonable regularity, although not necessarily annually. Regardless of the method used to identify the floodway, the floodway shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state;

(h) "Wetlands" means areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas to mitigate the conversion of wetlands.

(3) Procedural terms:

(a) "Guidelines" means those standards adopted to implement the policy of this chapter for regulation of use of the shorelines of the state prior to adoption of master programs. Such standards shall also provide criteria to local governments and the department in developing master programs;

(b) "Master program" shall mean the comprehensive use plan for a described area, and the use regulations together with maps, diagrams, charts, or other descriptive material and text, a statement of desired goals, and standards developed in accordance with the policies enunciated in RCW 90.58.020;

(c) "State master program" is the cumulative total of all master programs approved or adopted by the department of ecology;

(d) "Development" means a use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to this chapter at any state of water level;

(e) "Substantial development" shall mean any development of which the total cost or fair market value exceeds five thousand dollars, or any development which materially interferes with the normal public use of the water or shorelines of the state. The dollar threshold established in this subsection (3)(e) must be adjusted for inflation by the office of financial management every five years, beginning July 1, 2007, based upon changes in the consumer price index during that time period. "Consumer price index" means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items, compiled by the bureau of labor and statistics, United States department of labor. The office of financial management must calculate the new dollar threshold and transmit it to the office of the code reviser for publication in the Washington State Register at least one month before the new dollar threshold is to take effect. The following shall not be considered substantial developments for the purpose of this chapter:

(i) Normal maintenance or repair of existing structures or developments, including damage by accident, fire, or elements;

(ii) Construction of the normal protective bulkhead common to single family residences;

(iii) Emergency construction necessary to protect property from damage by the elements;



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(iv) Construction and practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities on shorelands, and the construction and maintenance of irrigation structures including but not limited to head gates, pumping facilities, and irrigation channels. A feedlot of any size, all processing plants, other activities of a commercial nature, alteration of the contour of the shorelands by leveling or filling other than that which results from normal cultivation, shall not be considered normal or necessary farming or ranching activities. A feedlot shall be an enclosure or facility used or capable of being used for feeding livestock hay, grain, silage, or other livestock feed, but shall not include land for growing crops or vegetation for livestock feeding and/or grazing, nor shall it include normal livestock wintering operations;

(v) Construction or modification of navigational aids such as channel markers and anchor buoys;

(vi) Construction on shorelands by an owner, lessee, or contract purchaser of a single family residence for his own use or for the use of his or her family, which residence does not exceed a height of thirty-five feet above average grade level and which meets all requirements of the state agency or local government having jurisdiction thereof, other than requirements imposed pursuant to this chapter;

(vii) Construction of a dock, including a community dock, designed for pleasure craft only, for the private noncommercial use of the owner, lessee, or contract purchaser of single and multiple family residences. This exception applies if either: (A) In salt waters, the fair market value of the dock does not exceed two thousand five hundred dollars; or (B) in fresh waters, the fair market value of the dock does not exceed ten thousand dollars, but if subsequent construction having a fair market value exceeding two thousand five hundred dollars occurs within five years of completion of the prior construction, the subsequent construction shall be considered a substantial development for the purpose of this chapter;

(viii) Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as a part of an irrigation system for the primary purpose of making use of system waters, including return flow and artificially stored groundwater for the irrigation of lands;

(ix) The marking of property lines or corners on state owned lands, when such marking does not significantly interfere with normal public use of the surface of the water;

(x) Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on September 8, 1975, which were created, developed, or utilized primarily as a part of an agricultural drainage or diking system;

(xi) Site exploration and investigation activities that are prerequisite to preparation of an application for development authorization under this chapter, if:

(A) The activity does not interfere with the normal public use of the surface waters;

(B) The activity will have no significant adverse impact on the environment including, but not limited to, fish, wildlife, fish or wildlife habitat, water quality, and aesthetic values;

(C) The activity does not involve the installation of a structure, and upon completion of the activity the vegetation and land configuration of the site are restored to conditions existing before the activity;

(D) A private entity seeking development authorization under this section first posts a performance bond or provides other evidence of financial responsibility to the local jurisdiction to ensure that the site is restored to preexisting conditions; and

(E) The activity is not subject to the permit requirements of RCW 90.58.550;

(xii) The process of removing or controlling an aquatic noxious weed, as defined in RCW 17.26.020, through the use of

an herbicide or other treatment methods applicable to weed control that are recommended by a final environmental impact statement published by the department of agriculture or the department jointly with other state agencies under chapter 43.21C RCW.

**NEW SECTION. Sec. 5.** A new section is added to chapter 35A.63 RCW to read as follows:

(1) A special height moratorium is created on the Olympia Isthmus in the area adjacent to the historic Budd Inlet named in RCW 90.58.030 in order to protect the scenic beauty of the state capitol campus for the citizens of this state and for out-of-state visitors.

(2) The Olympia Isthmus special height moratorium is located as follows: The Olympia Isthmus--from the western boundary of Capitol Waterway in Olympia proceeding west to the shoreline of the Deschutes spillway bounded by Capitol Lake shoreline and Budd Inlet shoreline.

(3) The maximum allowable height for a new or remodeled building or structure located within the Olympia Isthmus special height moratorium is thirty-five feet. This section only applies to new construction, and remodeling or restructuring that affects the height of the building. This section is not intended to prevent normal repair, maintenance, and internal remodeling of any building already exceeding the height limitation.

**NEW SECTION. Sec. 6.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION. Sec. 7.** 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."

Senator Fraser spoke in favor of adoption of the amendment to the committee striking amendment.

Senator Delvin spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Fraser and others on page 1, line 3 to the committee striking amendment to Engrossed Substitute House Bill No. 1379.

The motion by Senator Fraser carried and the amendment to the committee striking amendment was adopted by voice vote.

#### MOTION

Senator Kilmer moved that the following amendment by Senator Kilmer and others to the committee striking amendment be adopted.

On page 1, line 12 of the amendment, after "act" insert ", while recognizing the legitimate interests of existing shoreline related developments during the period of interim moratoria"

On page 1, line 26 of the amendment, after "subsection" strike "." and insert ";

(iv) Provide that all lawfully existing uses, structures, or other development shall continue to be deemed lawful conforming uses and may continue to be maintained, repaired, and redeveloped, so long as the use is not expanded, under the terms of the land use and shoreline rules and regulations in place at the time of the moratorium."

Senator Kilmer spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Kilmer and others on page 1, line 12 to the committee striking amendment to Engrossed Substitute House Bill No. 1379.

The motion by Senator Kilmer carried and the amendment to the committee striking amendment was adopted by voice vote.

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The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Government Operations & Elections as amended to Engrossed Substitute House Bill No. 1379.

The motion by Senator Fraser carried and the committee striking amendment as amended was adopted by voice vote.

## MOTION

There being no objection, the following title amendment were adopted:

On page 1, line 2 of the title, after "act;" strike the remainder of the title and insert "adding a new section to chapter 90.58 RCW; and creating a new section."

On page 2, line 16 of the title amendment, after "insert" strike all material through "section." on line 17 and insert "amending RCW 90.58.030; adding a new section to chapter 90.58 RCW; adding a new section to chapter 35A.63 RCW; creating new sections; and declaring an emergency."

## MOTION

On motion of Senator Fraser, the rules were suspended, Engrossed Substitute House Bill No. 1379 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Swecker spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1379 as amended by the Senate.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1379 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 31; Nays, 16; Absent, 0; Excused, 2.

Voting yea: Senators Berkey, Brown, Eide, Franklin, Fraser, Hargrove, Haugen, Hobbs, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Shin and Tom

Voting nay: Senators Becker, Benton, Brandland, Carrell, Delvin, Hatfield, Hewitt, Holmquist, Honeyford, McCaslin, Parlette, Roach, Schoesler, Stevens, Swecker and Zarelli

Excused: Senators Fairley and Sheldon

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1379 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

At 12:01 p.m., on motion of Senator Eide, the Senate was recessed until 1:30 p.m.

AFTERNOON SESSION

The Senate was called to order at 1:30 p.m. by President Owen.

## SECOND READING

HOUSE BILL NO. 1264, by Representatives Springer, Rodne and Eddy

Regarding the creation and registration of entities formed by public agencies.

The measure was read the second time.

## MOTION

On motion of Senator Kline, the rules were suspended, House Bill No. 1264 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kline spoke in favor of passage of the bill.

## MOTION

On motion of Senator Brandland, Senators Benton, Carrell and Pflug were excused.

The President declared the question before the Senate to be the final passage of House Bill No. 1264.

## ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1264 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 2; Excused, 3.

Voting yea: Senators Becker, Berkey, Brandland, Carrell, Delvin, Eide, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Absent: Senators Brown and McAuliffe

Excused: Senators Benton, Fairley and Pflug

HOUSE BILL NO. 1264, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1571, by House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Blake and Chandler)

Regarding the adjudication of water rights.

The measure was read the second time.

## MOTION

Senator Rockefeller moved that the following committee striking amendment by the Committee on Environment, Water & Energy be adopted.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 90.03.110 and 1987 c 109 s 72 are each amended to read as follows:

(1) Upon the filing of a petition with the department by a planning unit or by one or more persons claiming the right to ~~((divert))~~ any waters within the state or when, after investigation, in the judgment of the department, the ~~((interest of the public will be subserved by a determination of the rights thereto, it shall be the duty of the department to))~~ public interest will be served by a determination of the rights thereto, the department shall prepare a statement of the facts, together with a plan or map of the locality under investigation, and file such statement and plan or map in the superior court of the county in which said water is situated, or, in case such water flows or is situated in more than one county, in the county which the department shall determine to be the most convenient to the parties interested therein. Such a statement shall ~~((contain substantially the following matter, to wit:~~

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~~(1) The names of all known persons claiming the right to divert said water, the right to the diversion of which is sought to be determined, and~~

~~(2) A brief statement of the facts in relation to such water, and the necessity for a determination of the rights thereto);~~

~~(a) Either (i) identify each person or entity owning real property situated within the area to be adjudicated but outside the boundaries of a city, town, or special purpose district that provides water to property within its service area; (ii) identify all known persons claiming a right to the water sought to be determined; or (iii) identify both; and~~

~~(b) Include a brief statement of the facts in relation to such water, and the necessity for a determination of the rights thereto.~~

~~(2) Prior to filing an adjudication under this chapter, the department shall:~~

~~(a) Consult with the administrative office of the courts to determine whether sufficient judicial resources are available to commence and to prosecute the adjudication in a timely manner; and~~

~~(b) Report to the appropriate committees of the legislature on the estimated budget needs for the court and the department to conduct the adjudication.~~

**Sec. 2.** RCW 90.03.120 and 1987 c 109 s 73 are each amended to read as follows:

(1) Upon the filing of the statement and map as provided in RCW 90.03.110 the judge of such superior court shall make an order directing summons to be issued, and fixing the return day thereof, which shall be not less than ~~((sixty))~~ one hundred nor more than ~~((ninety))~~ one hundred thirty days, after the making of such order: PROVIDED, That for good cause, the court, at the request of the department, may modify said time period.

(2) A summons issued under this section shall ~~((thereupon))~~ be issued out of said superior court, signed and attested by the clerk thereof, in the name of the state of Washington, as plaintiff, against all known persons ~~((claiming the right to divert the water involved and also all persons unknown claiming the right to divert the water involved, which said))~~ identified by the department under RCW 90.03.110. The summons shall contain a brief statement of the objects and purpose of the proceedings and shall require the defendants to appear on the return day thereof, and make and file ~~((a statement of))~~ an adjudication claim to, or interest in, the water involved and a statement that unless they appear at the time and place fixed and assert such right, judgment will be entered determining their rights according to the evidence: PROVIDED, HOWEVER, That any persons claiming the right to ((the use of)) water by virtue of a contract with a claimant to the right to divert the same, shall not be necessary parties to the proceeding.

(3) To the extent consistent with court rules and subject to the availability of funds provided either by direct appropriation or funded through the administrative office of the courts for this specific adjudicative proceeding, the court is encouraged to conduct the water rights adjudication employing innovative practices and technologies appropriate to large scale and complex cases, such as: (a) Electronic filing of documents, including notice and claims; (b) appearance via teleconferencing; (c) prefilings of testimony; and (d) other practices and technologies consistent with court rules and emerging technologies.

**NEW SECTION. Sec. 3.** A new section is added to chapter 90.03 RCW to read as follows:

(1) A judge in a water right adjudication filed under this chapter may be partially or fully disqualified from hearing the adjudication. Partial disqualification means disqualification from hearing specified claims. Full disqualification means disqualification from hearing any aspect of the adjudication.

(a) A judge is partially disqualified when the judge's impartiality might reasonably be questioned and the apparent or actual partiality is limited to specified claims.

(b) A judge is fully disqualified when the judge's impartiality might reasonably be questioned and the apparent or actual partiality extends beyond limited claims such that the judge should not hear any part of the adjudication.

(2) A judge may recuse himself or herself under this section or a party may file a motion for disqualification. A motion for disqualification must state whether the remedy being sought is full or partial disqualification.

(3)(a) For parties who are named in the original pleadings, a motion for disqualification is timely if it is filed before the judge issues a discretionary order or ruling in the adjudication.

(b) For a party who is joined in the adjudication after the original pleadings have been filed, a motion for disqualification is timely if it is filed within the earliest of either (i) thirty days of being joined in the adjudication; or (ii) after the joinder of the party, before the judge issues a discretionary order or ruling relating to the joined party.

(c) When a motion for disqualification is untimely filed under this subsection (3), the motion will be granted only when necessary to correct a substantial injustice.

(d) For purposes of this section, "discretionary order or ruling" has the same meaning as "order or ruling involving discretion" in RCW 4.12.050.

(4) A party filing a motion for disqualification under this section has the burden of proving by a preponderance of the evidence that the judge should be disqualified under the standards of subsection (1) of this section.

(5) The motion for disqualification may not be heard by the judge against whom the motion is filed. Subject to this limitation, the court may assign the disqualification motion to any superior court judge of the judicial district in which the adjudication was filed or to a visiting superior court judge under RCW 2.56.040.

(6) Except as stated in subsection (3)(d) of this section, RCW 4.12.040 and 4.12.050, which otherwise govern the disqualification of superior court judges, do not apply to water right adjudications filed under this chapter. The standards set forth in RCW 2.28.030, which govern the disqualification of judicial officers generally, may be grounds for disqualification under this section.

**NEW SECTION. Sec. 4.** A new section is added to chapter 90.03 RCW to read as follows:

Upon expiration of the filing period established under RCW 90.03.120(2), the department shall file a motion for default against defendants who have been served but who have failed to file an adjudication claim under RCW 90.03.140. A party in default may file a late claim under the same circumstances the party could respond or defend under court rules on default judgments.

**NEW SECTION. Sec. 5.** A new section is added to chapter 90.03 RCW to read as follows:

If an adjudication claim is for a use for which a statement of claim was required to be filed under chapter 90.14 RCW and no such claim was filed, the department may move that the adjudication claim be denied. The court shall grant the department's motion unless the claimant shows good cause why the motion should not be granted.

**Sec. 6.** RCW 90.03.130 and 1987 c 109 s 74 are each amended to read as follows:

Service of said summons shall be made in the same manner and with the same force and effect as service of summons in civil actions commenced in the superior courts of the state: PROVIDED, That ~~((for good cause, the court, at the request of the department, as an alternative to personal service, may authorize service of summons to be))~~ as an alternative to personal service, service may be made by certified mail, with return receipt signed and dated by defendant, a spouse of a defendant, or another person authorized to accept service. If the defendants, or either of them, cannot be found within the state of

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Washington, of which the return of the sheriff of the county in which the proceeding is pending or the failure to sign a receipt for certified mail shall be prima facie evidence, upon the filing of an affidavit by the department, or its attorney, in conformity with the statute relative to the service of summons by publication in civil actions, such service may be made by publication in a newspaper of general circulation in the county in which such proceeding is pending, and also publication of said summons in a newspaper of general circulation in each county in which any portion of the water is situated, once a week for six consecutive weeks (six publications). ~~(In cases where personal service can be had, such summons shall be served at least twenty days before the return day thereof.)~~ The summons by publication shall state that ~~((statements of))~~ adjudication claims must be filed within ~~((twenty))~~ sixty days after the last publication or before the return date, whichever is later. In cases where personal service or service by certified mail is had, summons must be served at least sixty days before the return day thereof. For summons by certified mail, completion of service occurs upon the date of receipt by the defendant.

Personal service of summons may be made by department of ecology employees for actions pertaining to water rights.

**Sec. 7.** RCW 90.03.140 and 1987 c 109 s 75 are each amended to read as follows:

~~(1) On or before the ((return day of such summons, each defendant shall file in the office of the clerk of said court a statement, and therewith a copy thereof for the department, containing substantially the following:~~

~~— (1) The name and post office address of defendant.~~

~~— (2) The full nature of the right, or use, on which the claim is based.~~

~~— (3) The time of initiation of such right and commencement of such use.~~

~~— (4) The date of beginning and completion of construction.~~

~~— (5) The dimensions and capacity of all ditches existing at the time of making said statement.~~

~~— (6) The amount of land under irrigation and the maximum quantity of water used thereon prior to the date of said statement and if for power, or other purposes, the maximum quantity of water used prior to date of said statement.~~

~~— (7) The legal description of the land upon which said water has been, or may be, put to beneficial use, and the legal description of the subdivision of land on which the point of diversion is located.~~

~~Such statement))~~ date specified in the summons, each defendant shall file with the clerk of the superior court an adjudication claim on a form and in a manner provided by the department, and mail or electronically mail a copy to the department. The department shall provide information that will assist claimants of small uses of water in completing their adjudication claims. The adjudication claim must contain substantially the following, except that when the legal basis for the claimed right is a federally reserved right, the information must be filed only as applicable:

~~(a) The name, mailing address, and telephone contact number of each defendant on the claim, and e-mail address, if available;~~

~~(b) The purpose or purposes of use of the water and the annual and instantaneous quantities of water put to beneficial use;~~

~~(c) For each use, the date the first steps were taken under the law to put the water to beneficial use;~~

~~(d) The date of beginning and completion of the construction of wells, ditches, or other works to put the water to use;~~

~~(e) The maximum amount of land ever under irrigation and the maximum annual and instantaneous quantities of water ever used thereon prior to the date of the statement and if for power,~~

~~or other purposes, the maximum annual and instantaneous quantities of water ever used prior to the date of the adjudication claim;~~

~~(f) The dates between which water is used annually;~~

~~(g) If located outside the boundaries of a city, town, or special purpose district that provides water to property within its service area, the legal description and county tax parcel number of the land upon which the water as presently claimed has been, or may be, put to beneficial use;~~

~~(h) The legal description and county tax parcel number of the subdivision of land on which the point of diversion or withdrawal is located as well as land survey and geographic positioning coordinates of the same if available;~~

~~(i) Whether a right to surface or groundwater, or both, is claimed and the source of the surface water and the location and depth of all wells;~~

~~(j) The legal basis for the claimed right;~~

~~(k) Whether a statement of claim relating to the water right was filed under chapter 90.14 RCW or whether a declaration relating to the water right was filed under chapter 90.44 RCW and, if so, the claim or declaration number, and whether the right is documented by a permit or certificate and, if so, the permit number or certificate number. When the source is a well, the well log number must be provided, when available;~~

~~(l) The amount of land and the annual and instantaneous quantities of water used thereon, or used for power or other purposes, that the defendant claims as a present right.~~

~~(2) The adjudication claim shall be verified on oath by the defendant (, and in the discretion of the court may be amended). The department shall furnish the form for the adjudication claim. A claimant may file an adjudication claim electronically if authorized under state and local court rules. The department may assist claimants in their effort by making the department's pertinent records and information accessible electronically or by other means and through conferring with claimants.~~

**NEW SECTION. Sec. 8.** A new section is added to chapter 90.03 RCW to read as follows:

Within the date set by the court for filing evidence, each claimant shall file with the court evidence to support the claimant's adjudication claims. The court is encouraged to set a date for filing evidence that is reasonable and fair for the timely processing of the adjudication. The evidence may include, without limitation, permits or certificates of water right, statements of claim made under chapter 90.14 RCW, deeds, documents related to issuance of a land patent, aerial photographs, decrees of previous water rights adjudications, crop records, records of livestock purchases and sales, records of power use, metering records, declarations containing testimonial evidence, records of diversion, withdrawal or storage and delivery by irrigation districts or ditch companies, and any other evidence to support that a water right was obtained and was not thereafter abandoned or relinquished. The evidence filed may include matters that are outside the original adjudication claim filed, and within the date set by the court for filing evidence, the claimant may amend the adjudication claim to conform to the evidence filed. Thereafter, except for good cause shown, a claimant may not file additional evidence to support the claim.

**NEW SECTION. Sec. 9.** A new section is added to chapter 90.03 RCW to read as follows:

(1) Upon the receipt of adjudication claims and the filing of claimants' evidence, the department shall conduct a preliminary investigation for the purpose of examining:

(a) The uses of the subject waters by and any physical works in connection with the persons to whom the adjudication applies; and

(b) The uses for which a statement of claim has been filed under chapter 90.14 RCW or for which the department has a permit or certificate of water right on record.

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(2)(a) The examination may include, as the department deems appropriate:

- (i) An estimation of the amount of water that is reasonably necessary to accomplish various beneficial uses within the area;
- (ii) The measurement of stream flows;
- (iii) The measurement of any diversion or withdrawal rates;
- (iv) An estimation of storage capacity and the amount of water stored;
- (v) The types and numbers of stock watered;
- (vi) The number of residences served;
- (vii) The location and size of any irrigated land areas; and
- (viii) Any other information pertinent to the determination of water rights in an adjudication under this chapter.

(b) The department may also take other necessary steps and gather other data and information as may be essential to the proper understanding of the water uses and associated rights of the affected water users, including review of each claimant's adjudication claim and evidence the claimant filed to support the claim. The claimants and the department are encouraged to confer as may be beneficial to clarify the factual and legal basis for the claim. To the extent consistent with court rules, the court may deem it appropriate to encourage claimants and the department to work closely together to reach agreement on a claimed water right that may result in timely settlement of water rights, reduced costs for the parties, greater equity and general public service, and better information that may be used for overall water management.

(3) The department shall file with the court the department's report of findings as to each adjudication claim filed timely under RCW 90.03.140. The department may divide its report of findings into two or more segments, covering particular drainages, uses, or other appropriate bases for dividing the report on adjudication claims. Based on the evidence filed by claimants and the department's report of findings, the department shall file with the superior court either or both of the following motions:

(a) A motion for a partial decree in favor of all stated claims under RCW 90.03.140 that the department finds to be substantiated with factual evidence; or

(b) A motion seeking determination of contested claims before the court.

**Sec. 10.** RCW 90.03.160 and 1989 c 80 s 1 are each amended to read as follows:

(1) Upon the completion of the service of summons as hereinafter provided, the superior court in which said proceeding is pending shall make an order referring said proceeding to the department to take testimony by its duly authorized designee, as referee, and the designee shall report to and file with the superior court of the county in which such cause is pending a transcript of such testimony for adjudication thereon by such court. The superior court may, in any complex case with more than one thousand named defendants, including the United States, retain for hearing and further processing such portions of the proceeding as pertain to a discrete class or classes of defendants or claims of water rights if the court determines that: (1) Resolution of claims of such classes appear to involve significant issues of law, either procedural or substantive; and (2) such a retention will both expedite the conclusion of the case and reduce the overall expenditures of the plaintiff, defendants, and the court) filing of the department's motion or motions under section 9(3) of this act, any party with a claim filed under RCW 90.03.140 for the appropriation of water or waters of the subject adjudication may file and serve a response to the department's motion or motions within the time set by the court for such a response. Objections must include specific information in regard to the particular disposition against which the objection is being made. Objections must also state the underlying basis of the objection being made, including general information about the forms of evidence that support the

objection. Any party may file testimony with the court and serve it on other parties. If a party intends to cross-examine a claimant or witness based on another party's prefiled testimony, the party intending to cross-examine shall file a notice of intent to cross-examine no later than fifteen days in advance of the hearing. If no notice of intent to cross-examine based on the prefiled testimony is given, then the claimant or witness is not required to appear at the hearing. Any party may present evidence in support of or in response to an objection.

(2) The superior court may appoint a referee or other judicial officer to assist the court.

(3) The superior court may adopt special rules of procedure for an adjudication of water rights under this chapter, including simplified procedures for claimants of small uses of water. The rules of procedure for a superior court apply to an adjudication of water rights under this chapter unless superseded by special rules of the court under this subsection. The superior court is encouraged to consider entering, after notice and hearing and as the court determines appropriate, pretrial orders from an adjudication commenced on October 12, 1977.

**NEW SECTION. Sec. 11.** A new section is added to chapter 90.03 RCW to read as follows:

(1) The legislature finds that early settlement of contested claims is needed for a fair and efficient adjudication of water rights. Therefore, the department and other parties should identify opportunities for settlement following the date set by the court for filing evidence for all parties. To the extent consistent with court rules, the court as it deems beneficial is encouraged to urge as many parties to the adjudication as possible to reach timely agreement on claimed water rights in a manner that limits costs to the public, claimants, counties, courts, and the department. Further, at appropriate times throughout the process the court as it deems beneficial is encouraged to direct parties to utilize alternative methods of dispute resolution, including informal meetings, negotiation, mediation, or other methods to reach agreement on disputed claims.

(2) Any time after the filing of all claims under RCW 90.03.140, the department or another party may move the superior court to allow parties to meet for settlement discussions for a set length of time, either before an appointed mediator or without a mediator. For good cause shown, the court may extend the length of time for settlement discussions. The costs of mediation must be equitably borne by the parties to the mediation.

(3) If the department and a claimant reach agreement on settlement, the department shall file a motion to approve the settlement pursuant to section 9(3)(a) of this act and shall disclose the terms of the settlement to other parties to the adjudication. The court shall conduct a hearing prior to approving a settlement and any party to the adjudication may object or offer modifications to the settlement.

**Sec. 12.** RCW 90.03.180 and 1995 c 292 s 21 are each amended to read as follows:

At the time of filing the ~~((statement))~~ adjudication claim as provided in RCW 90.03.140, each defendant, except the United States or an Indian tribe under 43 U.S.C. Sec. 666, shall pay to the clerk of the superior court a fee as set under RCW ~~((36.18.020))~~ 36.18.016.

**Sec. 13.** RCW 90.03.200 and 1988 c 202 s 91 are each amended to read as follows:

Upon the ((filing of the evidence and the report of the department, any interested party may, on or before five days prior to the date of said hearing, file exceptions to such report in writing and such exception shall set forth the grounds therefor and a copy thereof shall be served personally or by registered mail upon all parties who have appeared in the proceeding. If no exceptions be filed, the court shall enter a decree determining the rights of the parties according to the evidence and the report

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of the department, whether such parties have appeared therein or not. ~~If exceptions are filed the action shall proceed as in case of reference of a suit in equity and the court may in its discretion take further evidence or, if necessary, remand the case for such further evidence to be taken by the department's designee, and may require further report by him. Costs, not including taxable attorneys fees, may be allowed or not; if allowed, may be apportioned among the parties in the discretion of the court)~~ court's determination of all issues, the court shall issue a final decree and provide notice of the decree to all parties. The final decree must order each party whose rights have been confirmed, except the United States or an Indian tribe under 43 U.S.C. Sec. 666, to pay the department the fees required by RCW 90.03.470(10) and any other applicable fee schedule within ninety days after the department sends notice to the party under RCW 90.03.240. Appellate review of the decree shall be in the same manner as in other cases in equity, except that review must be sought within sixty days from the entry thereof.

**Sec. 14.** RCW 90.03.210 and 2001 c 220 s 5 are each amended to read as follows:

(1) During the pendency of such adjudication proceedings prior to judgment or upon review by an appellate court, the stream or other water involved shall be regulated or partially regulated according to the schedule of rights specified in the department's report upon an order of the court authorizing such regulation: PROVIDED, Any interested party may file a bond and obtain an order staying the regulation of said stream as to him, in which case the court shall make such order regarding the regulation of the stream or other water as he may deem just. The bond shall be filed within five days following the service of notice of appeal in an amount to be fixed by the court and with sureties satisfactory to the court, conditioned to perform the judgment of the court.

(2) Any appeal of a decision of the department on an application to change or transfer a water right subject to ~~((a general))~~ an adjudication that is being litigated actively ~~((and was commenced before October 13, 1977;))~~ shall be conducted as follows:

(a) The appeal shall be filed with the court conducting the adjudication and served under RCW 34.05.542(3). The content of the notice of appeal shall conform to RCW 34.05.546. Standing to appeal shall be based on the requirements of RCW 34.05.530 and is not limited to parties to the adjudication.

(b) If the appeal includes a challenge to the portion of the department's decision that pertains to tentative determinations of the validity and extent of the water right, review of those tentative determinations shall be conducted by the court consistent with the provisions of RCW 34.05.510 through 34.05.598, except that the review shall be de novo.

(c) If the appeal includes a challenge to any portion of the department's decision other than the tentative determinations of the validity and extent of the right, the court must certify to the pollution control hearings board for review and decision those portions of the department's decision. Review by the pollution control hearings board shall be conducted consistent with chapter 43.21B RCW and the board's implementing regulations, except that the requirements for filing, service, and content of the notice of appeal shall be governed by (a) of this subsection. Any party to an appeal may move the court to certify portions of the appeal to the pollution control hearings board, but the appellant must file a motion for certification no later than ninety days after the appeal is filed under this section.

(d) Appeals shall be scheduled to afford all parties full opportunity to participate before the superior court and the pollution control hearings board.

(e) Any person wishing to appeal the decision of the board made under (c) of this subsection shall seek review of the decision in accordance with chapter 34.05 RCW, except that the

petition for review must be filed with the superior court conducting the adjudication.

(3) Nothing in this section shall be construed to affect or modify any treaty or other federal rights of an Indian tribe, or the rights of any federal agency or other person or entity arising under federal law. Nothing in this section is intended or shall be construed as affecting or modifying any existing right of a federally recognized Indian tribe to protect from impairment its federally reserved water rights in federal court.

**Sec. 15.** RCW 90.03.240 and 1987 c 109 s 82 are each amended to read as follows:

Upon the court's final determination of the rights to ~~((the diversion of))~~ water ~~((it shall be the duty of)),~~ the department ~~((to))~~ shall issue to each person entitled to ~~((the diversion of))~~ a water right by such a determination, a certificate ~~((under his official seal))~~ of adjudicated water right, setting forth the name and ~~((post office))~~ mailing address of record with the court of such person; the priority and purpose of the right; the period during which said right may be exercised, the point of diversion or withdrawal, and the place of use; the land to which said water right is appurtenant ~~((and when applicable));~~ the maximum ~~((quantity))~~ annual and instantaneous quantities of water allowed; and specific provisions or limitations or both under which the water right has been confirmed.

The department shall provide notice to the water right holder that the certificate has been prepared for issuance and that fees for the issuance of the certificate are due in accordance with RCW 90.03.470 and any other applicable fee schedule. If the water right holder fails to submit the required fees within one year from the date the notice was issued by the department, the department may move the court for sanctions for violation of the court's order in the final decree requiring payment.

**Sec. 16.** RCW 90.03.243 and 1982 c 15 s 1 are each amended to read as follows:

The expenses incurred by the state in a proceeding to determine rights to water initiated under RCW 90.03.110 or 90.44.220 or upon appeal of such a determination shall be borne by the state. Subject to the availability of state funding provided either by direct appropriation or funded through the administrative office of the courts for this specific purpose, the county in which an adjudication or a suit to administer an adjudication is being held must be provided the extraordinary costs imposed on the superior court of that county due to the adjudication.

**Sec. 17.** RCW 90.44.220 and 1987 c 109 s 119 are each amended to read as follows:

~~((In its discretion or upon the application of any party claiming right to the withdrawal and use of public groundwater, the department may file a petition))~~ Upon the filing of a petition with the department by a planning unit or by one or more persons claiming a right to any waters within the state or when, after investigation, in the judgment of the department, the public interest will be served by a determination of the rights thereto, the department shall file a petition to conduct an adjudication with the superior court of the county for the determination of the rights of appropriators of any particular groundwater body and all the provisions of RCW 90.03.110 through 90.03.240 ~~((as heretofore amended))~~ and sections 3 through 5, 8, 9, and 11 of this act, shall govern and apply to the adjudication and determination of such groundwater body and to the ownership thereof. Hereafter, in any proceedings for the adjudication and determination of water rights--either rights to the use of surface water or to the use of groundwater, or both--pursuant to chapter 90.03 RCW ~~((as heretofore amended)),~~ all appropriators of groundwater or of surface water in the particular basin or area may be included as parties to such adjudication, as ~~((pertinent))~~ set forth in chapter 90.03 RCW.

**Sec. 18.** RCW 43.21B.110 and 2003 c 393 s 19 are each amended to read as follows:

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MOTION

(1) The hearings board shall only have jurisdiction to hear and decide appeals from the following decisions of the department, the director, local conservation districts, and the air pollution control boards or authorities as established pursuant to chapter 70.94 RCW, or local health departments:

(a) Civil penalties imposed pursuant to RCW 18.104.155, 70.94.431, 70.105.080, 70.107.050, 88.46.090, 90.03.600, 90.48.144, 90.56.310, and 90.56.330.

(b) Orders issued pursuant to RCW 18.104.043, 18.104.060, 43.27A.190, 70.94.211, 70.94.332, 70.105.095, 86.16.020, 88.46.070, 90.14.130, 90.48.120, and 90.56.330.

(c) Except as provided in RCW 90.03.210(2), the issuance, modification, or termination of any permit, certificate, or license by the department or any air authority in the exercise of its jurisdiction, including the issuance or termination of a waste disposal permit, the denial of an application for a waste disposal permit, the modification of the conditions or the terms of a waste disposal permit, or a decision to approve or deny an application for a solid waste permit exemption under RCW 70.95.300.

(d) Decisions of local health departments regarding the grant or denial of solid waste permits pursuant to chapter 70.95 RCW.

(e) Decisions of local health departments regarding the issuance and enforcement of permits to use or dispose of biosolids under RCW 70.95J.080.

(f) Decisions of the department regarding waste-derived fertilizer or micronutrient fertilizer under RCW 15.54.820, and decisions of the department regarding waste-derived soil amendments under RCW 70.95.205.

(g) Decisions of local conservation districts related to the denial of approval or denial of certification of a dairy nutrient management plan; conditions contained in a plan; application of any dairy nutrient management practices, standards, methods, and technologies to a particular dairy farm; and failure to adhere to the plan review and approval timelines in RCW 90.64.026.

(h) Any other decision by the department or an air authority which pursuant to law must be decided as an adjudicative proceeding under chapter 34.05 RCW.

(2) The following hearings shall not be conducted by the hearings board:

(a) Hearings required by law to be conducted by the shorelines hearings board pursuant to chapter 90.58 RCW.

(b) Hearings conducted by the department pursuant to RCW 70.94.332, 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and 90.44.180.

(c) ~~(Proceedings conducted by the department, or the department's designee, under RCW 90.03.160 through 90.03.210 or 90.44.220.) Appeals of decisions by the department under RCW 90.03.110 and 90.44.220.~~

(d) Hearings conducted by the department to adopt, modify, or repeal rules.

(e) Appeals of decisions by the department as provided in chapter 43.21L RCW.

(3) Review of rules and regulations adopted by the hearings board shall be subject to review in accordance with the provisions of the Administrative Procedure Act, chapter 34.05 RCW.

NEW SECTION. **Sec. 19.** Except for section 14 of this act, this act applies only to adjudications initiated after the effective date of this section.

NEW SECTION. **Sec. 20.** The following acts or parts of acts are each repealed:

(1) RCW 90.03.170 (Determination of water rights--Hearing--Notice--Prior rights preserved) and 1987 c 109 s 77 & 1917 c 117 s 20; and

(2) RCW 90.03.190 (Determination of water rights--Transcript of testimony--Filing--Notice of hearing) and 1987 c 109 s 78 & 1917 c 117 s 22."

Senator Rockefeller moved that the following amendment by Senator Rockefeller to the committee striking amendment be adopted.

On page 4, beginning on line 13 of the amendment, after "(6)" strike all material through "chapter." on line 16

On page 17, after line 7 of the amendment, insert the following:

"**Sec. 19.** RCW 4.12.040 and 1989 c 15 s 1 are each amended to read as follows:

(1) No judge of a superior court of the state of Washington shall sit to hear or try any action or proceeding when it shall be established as hereinafter provided that said judge is prejudiced against any party or attorney, or the interest of any party or attorney appearing in such cause. In such case the presiding judge in judicial districts where there is more than one judge shall forthwith transfer the action to another department of the same court, or call in a judge from some other court. In all judicial districts where there is only one judge, a certified copy of the motion and affidavit filed in the cause shall be transmitted by the clerk of the superior court to the clerk of the superior court designated by the chief justice of the supreme court. Upon receipt the clerk of said superior court shall transmit the forwarded affidavit to the presiding judge who shall direct a visiting judge to hear and try such action as soon as convenient and practical.

(2) The presiding judge in judicial districts where there is more than one judge, or the presiding judge of judicial districts where there is only one judge, may send a case for trial to another court if the convenience of witnesses or the ends of justice will not be interfered with by such a course and the action is of such a character that a change of venue may be ordered: PROVIDED, That in criminal prosecutions the case shall not be sent for trial to any court outside the county unless the accused shall waive his or her right to a trial by a jury of the county in which the offense is alleged to have been committed.

(3) This section does not apply to water right adjudications filed under chapter 90.03 or 90.44 RCW. Disqualification of judges in water right adjudications is governed by section 3 of this act.

**Sec. 20.** RCW 4.12.050 and 1941 c 148 s 1 are each amended to read as follows:

(1) Any party to or any attorney appearing in any action or proceeding in a superior court, may establish such prejudice by motion, supported by affidavit that the judge before whom the action is pending is prejudiced against such party or attorney, so that such party or attorney cannot, or believes that he or she cannot, have a fair and impartial trial before such judge: PROVIDED, That such motion and affidavit is filed and called to the attention of the judge before he or she shall have made any ruling whatsoever in the case, either on the motion of the party making the affidavit, or on the motion of any other party to the action, of the hearing of which the party making the affidavit has been given notice, and before the judge presiding has made any order or ruling involving discretion, but the arrangement of the calendar, the setting of an action, motion or proceeding down for hearing or trial, the arraignment of the accused in a criminal action or the fixing of bail, shall not be construed as a ruling or order involving discretion within the meaning of this proviso; and in any event, in counties where there is but one resident judge, such motion and affidavit shall be filed not later than the day on which the case is called to be set for trial: AND PROVIDED FURTHER, That notwithstanding the filing of such motion and affidavit, if the parties shall, by stipulation in writing agree, such judge may hear argument and rule upon any preliminary motions, demurrers, or other matter thereafter presented: AND PROVIDED FURTHER, That no party or attorney shall be permitted to make more than one such

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application in any action or proceeding under this section and RCW 4.12.040.

(2) This section does not apply to water right adjudications filed under chapter 90.03 or 90.44 RCW. Disqualification of judges in water right adjudications is governed by section 3 of this act."

Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 17, after line 17 of the amendment, insert the following:

"NEW SECTION. Sec. 21. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

Senator Rockefeller spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Rockefeller on page 4, line 13 to the committee striking amendment to Engrossed Substitute House Bill No. 1571.

The motion by Senator Rockefeller carried and the amendment to the committee striking amendment was adopted by voice vote.

#### MOTION

Senator Honeyford moved that the following amendment by Senator Honeyford to the committee striking amendment be adopted.

On page 12, line 26, after "thereof," insert "The court issuing a final decree shall retain continuing jurisdiction to administer the decree."

Senator Honeyford spoke in favor of adoption of the amendment to the committee striking amendment.

Senator Honeyford demanded a roll call.

The President declared that one-sixth of the members supported the demand and the demand was sustained.

#### MOTION

On motion of Senator Eide, further consideration of Engrossed Substitute House Bill No. 1571 was deferred and the bill held its place on the second reading calendar.

#### RULING BY THE PRESIDENT

President Owen: "In ruling upon the point of order raised by Senator Zarelli as to the scope and object of the Ways & Means Committee striking amendment to Substitute House Bill 1778, the President finds and rules as follows:

Substitute House Bill 1778 as it came over from the House of Representatives is a bill that contains multiple topics, but it is fair to characterize them as all being related to various enforcement and licensing matters, including associated infractions and accounts.

While the committee amendment contains these same provisions, it also adds new provisions that restructure the governance of the Fish & Wildlife Commission. These governance provisions go well beyond the original subject matter related to licensing and enforcement.

For these reasons, the President finds that Senator Zarelli's point is well-taken. The committee amendment is beyond the scope and object of the underlying bill and not properly before the body for consideration.

#### MOTION

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On motion of Senator Eide, further consideration of Substitute House Bill No. 1778 was deferred and the bill held its place on the second reading calendar.

#### MOTION

On motion of Senator Marr, Senator Brown was excused.

#### SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2116, by House Committee on Capital Budget (originally sponsored by Representatives Maxwell, Dunshee, Upthegrove, Jacks, Liias and Simpson)

Concerning water pollution control.

The measure was read the second time.

#### MOTION

Senator Rockefeller moved that the following committee striking amendment by the Committee on Environment, Water & Energy be adopted.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 90.50A.020 and 1993 c 329 s 1 are each amended to read as follows:

(1) The water pollution control revolving fund is hereby established in the state treasury. Moneys in this fund may be spent only after legislative appropriation. Moneys in the fund may be spent only in a manner consistent with this chapter.

(2) The water pollution control revolving fund shall consist of:

(a) All capitalization grants provided by the federal government under the federal water quality act of 1987;

(b) Other moneys provided by the federal government including funds under the American recovery and reinvestment act of 2009 for water pollution control facilities and related activities to achieve federal water pollution requirements;

(c) All state matching funds appropriated or authorized by the legislature;

~~((e))~~ (d) Any other revenues derived from gifts or bequests pledged to the state for the purpose of providing financial assistance for water pollution control projects;

~~((d))~~ (e) All repayments of moneys borrowed from the fund;

~~((e))~~ (f) All interest payments made by borrowers from the fund;

~~((f))~~ (g) Any other fee or charge levied in conjunction with administration of the fund; and

~~((g))~~ (h) Any new funds as a result of leveraging.

(3) The state treasurer may invest and reinvest moneys in the water pollution control revolving fund in the manner provided by law. All earnings from such investment and reinvestment shall be credited to the water pollution control revolving fund.

Sec. 2. RCW 90.50A.030 and 2007 c 341 s 38 are each amended to read as follows:

The department shall use the moneys in the water pollution control revolving fund to provide financial assistance, as provided in the water quality act of 1987 and ~~((as provided in))~~ RCW 90.50A.040, and pursuant to other federal requirements for achieving state and federal water pollution control for protection of the state's waters:

(1) To make loans, on the condition that:

(a) Such loans are made at or below market interest rates, including interest free loans, at terms not to exceed twenty years;

(b) Annual principal and interest payments will commence not later than one year after completion of any project and all



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loans will be fully amortized not later (~~then~~) than twenty years after project completion;

(c) The recipient of a loan will establish a dedicated source of revenue for repayment of loans; and

(d) The fund will be credited with all payments of principal and interest on all loans.

(2) Loans, including additional subsidization to eligible recipients in the form of forgiveness of principal and negative interest loans or grants or any combination thereof, may be made for the following purposes:

(a) To public bodies for the construction or replacement of water pollution control facilities as defined in section 212 of the federal water quality act of 1987;

(b) For the implementation of a management program established under section 319 of the federal water quality act of 1987 relating to the management of nonpoint sources of pollution, subject to the requirements of that act; and

(c) For development and implementation of a conservation and management plan under section 320 of the federal water quality act of 1987 relating to the national estuary program, subject to the requirements of that act.

(3) The department may also use the money in the water pollution control revolving fund provided by congress for additional subsidization to eligible recipients in the form of forgiveness of principal, negative interest loans or grants or any combination thereof. Uses of forgiveness of principal and negative interest loans or grants include but are not limited to the following purposes:

(a) To public bodies for the construction or replacement of water pollution control facilities as defined in section 212 of the federal water quality act of 1987;

(b) For the implementation of a management program established under section 319 of the federal water quality act of 1987 relating to the management of nonpoint sources of pollution, subject to the requirements of that act;

(c) For development and implementation of a conservation and management plan under section 320 of the federal water quality act of 1987 relating to the national estuary program, subject to the requirements of that act;

(d) For storm water projects; and

(e) For combined sewer overflow projects.

(4) If additional subsidization is made available from moneys provided by congress to eligible recipients in the form of forgiveness of principal or negative interest loans or grants or any combination thereof, the department shall accept applications consistent with this chapter.

(5) The department may also use the moneys in the fund for the following purposes:

(a) To buy or refinance the water pollution control facilities' debt obligations of public bodies at or below market rates, if such debt was incurred after March 7, 1985;

(b) To guarantee, or purchase insurance for, public body obligations for water pollution control facility construction or replacement or activities if the guarantee or insurance would improve credit market access or reduce interest rates, or to provide loans to a public body for this purpose;

(c) As a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by the state if the proceeds of the sale of such bonds will be deposited in the fund;

(d) To earn interest on fund accounts; and

(e) To pay the expenses of the department in administering the water pollution control revolving fund according to administrative reserves authorized by federal and state law.

~~((+))~~ (6) The department shall present a biennial progress report on the use of moneys from the account to the appropriate committees of the legislature. The report shall consist of a list of each recipient, project description, and amount of the grant, loan, or both.

~~((5) The department may not use the moneys in the water pollution control revolving fund for grants.))~~

(7) When prioritizing project applications for loans, forgiveness of principal, and negative interest loans or grants or any combination thereof for water pollution control facilities, the department shall consider the following:

(a) The protection and improvement of water quality and public health;

(b) The cost to residential ratepayers if they must finance water pollution control facilities without state assistance;

(c) Actions required under federal and state permits and compliance orders, including projects with a history of noncompliance;

(d) Readiness of the project to proceed with planning, design, or construction;

(e) The cost-effectiveness of the project based on an analysis of alternatives, including regionalization;

(f) Whether the entity receiving assistance is a Puget Sound partner, as defined in RCW 90.71.010;

(g) Whether the project is referenced in the action agenda developed by the Puget Sound partnership under RCW 90.71.310;

(h) Effective one calendar year following the development and statewide availability of model evergreen community management plans and ordinances under RCW 35.105.050, whether the project is sponsored by an entity that has been recognized, and what gradation of recognition was received, in the evergreen community recognition program created in RCW 35.105.030;

(i) The extent to which the applicant county or city, or if the applicant is another public body, the extent to which the county or city in which the applicant public body is located, has established programs to mitigate nonpoint pollution of the surface or subterranean water sought to be protected by the water pollution control facility named in the application for state assistance; and

(j) The recommendations of the Puget Sound partnership, created in RCW 90.71.210, and any other board, council, commission, or group established by the legislature or a state agency to study water pollution control issues in the state.

**Sec. 3.** RCW 90.50A.040 and 2007 c 341 s 39 are each amended to read as follows:

Moneys deposited in the water pollution control revolving fund shall be administered by the department. In administering the fund, the department shall:

(1) Consistent with RCW 90.50A.030 and 90.50A.080, allocate funds for loans, forgiveness of principal, negative interest loans or grants or any combination thereof in accordance with the annual project priority list in accordance with section 212 of the federal water pollution control act as amended in 1987, and allocate funds under sections 319 and 320 according to the provisions of that act, and allocate funds for separate competitive programs relating to storm water systems, sewer systems, and septic systems prioritized on a worst case first need basis;

(2) Use accounting, audit, and fiscal procedures that conform to generally accepted government accounting standards;

(3) Prepare any reports required by the federal government as a condition to awarding federal capitalization grants;

(4) Adopt by rule any procedures or standards necessary to carry out the provisions of this chapter;

(5) Enter into agreements with the federal environmental protection agency;

(6) Cooperate with local, substate regional, and interstate entities regarding state assessment reports and state management programs related to the nonpoint source management programs as noted in section 319(c) of the federal water pollution control

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act amendments of 1987 and estuary programs developed under section 320 of that act;

(7) Comply with provisions of the water quality act of 1987; and

(8) After January 1, 2010, not provide funding for projects designed to address the restoration of Puget Sound that are in conflict with the action agenda developed by the Puget Sound partnership under RCW 90.71.310.

**NEW SECTION. Sec. 4.** A new section is added to chapter 90.50A RCW to read as follows:

Any public body receiving a loan, forgiveness of principal, or negative interest loan or grant or any combination thereof from the fund shall:

(1) Appear on the annual project priority list to be identified for funding under section 212 of the federal water pollution control act amendments of 1987 or be eligible under sections 319 and 320 of that act;

(2) Submit an application to the department;

(3) Establish and maintain a dedicated source of revenue or other acceptable source of revenue for the repayment of the loan; and

(4) Demonstrate to the satisfaction of the department it has sufficient legal authority to incur the debt for the loan that it is applying for.

**Sec. 5.** RCW 90.50A.060 and 1988 c 284 s 7 are each amended to read as follows:

If a public body defaults on loan payments due to the fund, the state may withhold any amounts otherwise due to the public body and direct that such funds be applied to the indebtedness and deposited into the account.

**Sec. 6.** RCW 90.48.110 and 2007 c 343 s 13 are each amended to read as follows:

(1) Except under subsection (2) of this section, all engineering reports, plans, and specifications for the construction of new sewerage systems, sewage treatment or disposal plants or systems, or for improvements or extensions to existing sewerage systems or sewage treatment or disposal plants, and the proposed method of future operation and maintenance of said facility or facilities, shall be submitted to and be approved by the department, before construction thereof may begin. No approval shall be given until the department is satisfied that said plans and specifications and the methods of operation and maintenance submitted are adequate to protect the quality of the state's waters as provided for in this chapter.

(a) The department shall require, through the development of rules, that plans established in this subsection (1) include the following elements:

(i) Reviews and updates of sewer plans on a six-year cycle, including asset management and financial planning;

(ii) An equitable sewer user charge system for residential, commercial, and industrial users to cover all financial obligation of the planned sewer utility;

(iii) Connection fees for new connections to a sewer system that reflect a fair share cost of infrastructure from which new connections will benefit;

(iv) A capital wastewater facilities reserve fund dedicated to paying for wastewater infrastructure and equipment replacement; and

(v) A sewer use ordinance that restricts certain connections and wastes to protect a local government's investment and enhance the wastewater treatment's process stability and effluent quality. The ordinance must, at least:

(A) Require new sewers and connections to be properly designed and constructed;

(B) Require a provision with a timeline and proximity in which existing and future residences must connect to the sewer system;

(C) Prohibit inflow sources into the sewer system; and

(D) Prohibit introduction of toxic or hazardous wastes into the sewer system in an amount or concentration that endangers the public's safety or the physical integrity of the system which may cause violations of the national pollutant discharge elimination system permit or state waste discharge permit.

(b) Approval under this chapter is not required for large on-site sewage systems permitted by the department of health under chapter 70.118B RCW or for on-site sewage systems regulated by local health jurisdictions under rules of the state board of health.

(2) To promote efficiency in service delivery and intergovernmental cooperation in protecting the quality of the state's waters, the department may delegate the authority for review and approval of engineering reports, plans, and specifications for the construction of new sewerage systems, sewage treatment or disposal plants or systems, or for improvements or extensions to existing sewerage system or sewage treatment or disposal plants, and the proposed method of future operations and maintenance of said facility or facilities and industrial pretreatment systems, to local units of government requesting such delegation and meeting criteria established by the department.

(3) For any new or revised general sewer plan submitted for review under this section, the department shall review and either approve, conditionally approve, reject, or request amendments within ninety days of the receipt of the submission of the plan. The department may extend this ninety-day time limitation for new submittals by up to an additional ninety days if insufficient time exists to adequately review the general sewer plan. For rejections of plans or extensions of the timeline, the department shall provide in writing to the local government entity the reason for such action. In addition, the governing body of the local government entity and the department may mutually agree to an extension of the deadlines contained in this section.

**NEW SECTION. Sec. 7.** The department of ecology may adopt rules to implement this act.

**NEW SECTION. Sec. 8.** 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."

## MOTION

Senator Honeyford moved that the following amendment by Senator Honeyford to the committee striking amendment be adopted.

On page 2, line 29 of the amendment, after "act;" strike "and" and insert "~~(and)~~"

On page 2, line 33 of the amendment, after "act" insert ";" and

(d) For the planning, design, and construction of publicly owned wastewater treatment facilities, including publicly owned industrial wastewater treatment facilities that relieve a city of the burden of processing industrial wastewater"

On page 8, after line 15 of the amendment, insert the following:

"**Sec. 7.** RCW 70.146.070 and 2008 c 299 s 26 are each amended to read as follows:

(1) When making grants or loans for water pollution control facilities, the department shall consider the following:

(a) The protection of water quality and public health;

(b) The cost to residential ratepayers if they had to finance water pollution control facilities without state assistance;

(c) Actions required under federal and state permits and compliance orders;

(d) The level of local fiscal effort by residential ratepayers since 1972 in financing water pollution control facilities;

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(e) Except as otherwise conditioned by RCW 70.146.110, whether the entity receiving assistance is a Puget Sound partner, as defined in RCW 90.71.010;

(f) Whether the project is referenced in the action agenda developed by the Puget Sound partnership under RCW 90.71.310;

(g) Except as otherwise provided in RCW 70.146.120, and effective one calendar year following the development and statewide availability of model evergreen community management plans and ordinances under RCW 35.105.050, whether the project is sponsored by an entity that has been recognized, and what gradation of recognition was received, in the evergreen community recognition program created in RCW 35.105.030;

(h) The extent to which the applicant county or city, or if the applicant is another public body, the extent to which the county or city in which the applicant public body is located, has established programs to mitigate nonpoint pollution of the surface or subterranean water sought to be protected by the water pollution control facility named in the application for state assistance; and

(i) The recommendations of the Puget Sound partnership, created in RCW 90.71.210, and any other board, council, commission, or group established by the legislature or a state agency to study water pollution control issues in the state.

(2) Except where necessary to address a public health need or substantial environmental degradation, a county, city, or town planning under RCW 36.70A.040 may not receive a grant or loan for water pollution control facilities unless it has adopted a comprehensive plan, including a capital facilities plan element, and development regulations as required by RCW 36.70A.040. This subsection does not require any county, city, or town planning under RCW 36.70A.040 to adopt a comprehensive plan or development regulations before requesting or receiving a grant or loan under this chapter if such request is made before the expiration of the time periods specified in RCW 36.70A.040. A county, city, or town planning under RCW 36.70A.040 which has not adopted a comprehensive plan and development regulations within the time periods specified in RCW 36.70A.040 is not prohibited from receiving a grant or loan under this chapter if the comprehensive plan and development regulations are adopted as required by RCW 36.70A.040 before submitting a request for a grant or loan.

(3) Whenever the department is considering awarding grants or loans for public facilities to special districts requesting funding for a proposed facility located in a county, city, or town planning under RCW 36.70A.040, it shall consider whether the county, city, or town planning under RCW 36.70A.040 in whose planning jurisdiction the proposed facility is located has adopted a comprehensive plan and development regulations as required by RCW 36.70A.040.

(4) When making grants or loans for water pollution control facilities, the department may award grants or provide loans to publicly owned industrial wastewater treatment facilities that relieve a city of the burden of processing industrial wastewater.

(5) After January 1, 2010, any project designed to address the effects of water pollution on 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.

**Sec. 8.** RCW 90.48.290 and 1987 c 109 s 145 are each amended to read as follows:

The department is authorized to make and administer grants within appropriations authorized by the legislature to any municipal or public corporation, or political subdivision within the state for the purpose of aiding in the construction of water pollution control projects necessary to prevent the discharge of untreated or inadequately treated sewage or other waste into the waters of the state including, but not limited to, projects for the

control of storm or surface waters which will provide for the removal of waste or polluting materials therefrom.

Grants so made by the department shall be subject to the following limitations:

(1) No grant shall be made in an amount which exceeds the recipient's contribution to the estimated cost of the project: PROVIDED, That the following shall be considered a part of the recipient's contribution:

(a) Any grant received by the recipient from the federal government pursuant to section 8(f) of the Federal Water Pollution Control Act (33 U.S.C. 466) for the project;

(b) Any expenditure which is made by any municipal or public corporation, or political subdivision within the state as a part of a joint effort with the recipient to carry out the project and which has not been used as a matching contribution for another grant made pursuant to this chapter, and

(c) Any expenditure for the project made by the recipient out of moneys advanced by the department from a revolving fund and repayable to said fund.

(2) No grant shall be made for any project which does not qualify for and receive a grant of federal funds under the provisions of the Federal Water Pollution Control Act as now or hereafter amended: PROVIDED, That this restriction shall not apply to state grants made in any biennium over and above the amount of such grants required to match all federal funds allocated to the state for such biennium. As such, grants may be made for the planning, design, and construction of any publicly owned wastewater treatment facilities, including publicly owned industrial wastewater treatment facilities that relieve a city of the burden of processing industrial wastewater.

(3) No grant shall be made to any municipal or public corporation, or political subdivision for any project located within a drainage basin unless the department shall have previously adopted a comprehensive water pollution control and abatement plan and unless the project is found by the department to conform with such basin comprehensive plan: PROVIDED, That the requirement for a project to conform to a comprehensive water pollution control and abatement plan may be waived by the department for any grant application filed with the department prior to July 1, 1974, in those situations where the department finds the public interest would be served better by approval of any grant application made prior to adoption of such plan than by its denial.

(4) Recipients of grants shall meet such qualifications and follow such procedures in applying for grants as shall be established by the department.

(5) Grants may be made to reimburse recipients for expenditures made after July 1, 1967, for projects which meet the requirements of this section and were commenced after the recipient had filed a grant application with the department."

Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 8, line 16 of the amendment, after "Sec. 7." strike "The" and insert "Except for RCW 90.50A.030(2)(d), 70.146.070, and 90.48.290, the"

Senators Honeyford and Rockefeller spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Honeyford on page 2, line 29 to the committee striking amendment to Engrossed Substitute House Bill No. 2116.

The motion by Senator Honeyford carried and the amendment to the committee striking amendment was adopted by voice vote.

MOTION

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Senator Honeyford moved that the following amendment by Senator Honeyford and others to the committee striking amendment be adopted.

On page 8, after line 16, insert the following:

"Sec. 7. RCW 90.48.260 and 2007 c 341 s 55 are each amended to read as follows:

(1) The department of ecology is hereby designated as the state water pollution control agency for all purposes of the federal clean water act as it exists on February 4, 1987, and is hereby authorized to participate fully in the programs of the act as well as to take all action necessary to secure to the state the benefits and to meet the requirements of that act. With regard to the national estuary program established by section 320 of that act, the department shall exercise its responsibility jointly with the Puget Sound partnership, created in RCW 90.71.210. The department of ecology may delegate its authority under this chapter, including its national pollutant discharge elimination permit system authority and duties regarding animal feeding operations and concentrated animal feeding operations, to the department of agriculture through a memorandum of understanding. Until any such delegation receives federal approval, the department of agriculture's adoption or issuance of animal feeding operation and concentrated animal feeding operation rules, permits, programs, and directives pertaining to water quality shall be accomplished after reaching agreement with the director of the department of ecology. Adoption or issuance and implementation shall be accomplished so that compliance with such animal feeding operation and concentrated animal feeding operation rules, permits, programs, and directives will achieve compliance with all federal and state water pollution control laws. The powers granted herein include, among others, and notwithstanding any other provisions of chapter 90.48 RCW or otherwise, the following:

((+)) (a) Complete authority to establish and administer a comprehensive state point source waste discharge or pollution discharge elimination permit program which will enable the department to qualify for full participation in any national waste discharge or pollution discharge elimination permit system and will allow the department to be the sole agency issuing permits required by such national system operating in the state of Washington subject to the provisions of RCW 90.48.262(2). Program elements authorized herein may include, but are not limited to: ((+)) (i) Effluent treatment and limitation requirements together with timing requirements related thereto; ((+)) (ii) applicable receiving water quality standards requirements; ((+)) (iii) requirements of standards of performance for new sources; ((+)) (iv) pretreatment requirements; ((+)) (v) termination and modification of permits for cause; ((+)) (vi) requirements for public notices and opportunities for public hearings; ((+)) (vii) appropriate relationships with the secretary of the army in the administration of his responsibilities which relate to anchorage and navigation, with the administrator of the environmental protection agency in the performance of his duties, and with other governmental officials under the federal clean water act; ((+)) (viii) requirements for inspection, monitoring, entry, and reporting; ((+)) (ix) enforcement of the program through penalties, emergency powers, and criminal sanctions; ((+)) (x) a continuing planning process; and ((+)) (xi) user charges.

((+)) (b) The power to establish and administer state programs in a manner which will insure the procurement of moneys, whether in the form of grants, loans, or otherwise; to assist in the construction, operation, and maintenance of various water pollution control facilities and works; and the administering of various state water pollution control management, regulatory, and enforcement programs.

((+)) (c) The power to develop and implement appropriate programs pertaining to continuing planning processes, area-wide waste treatment management plans, and basin planning.

(2) The governor shall have authority to perform those actions required of him or her by the federal clean water act.

(3) Redevelopment, as defined in the 2005 western Washington storm water management manual, is not subject to the forested condition flow control requirements of the 2005 western Washington storm water management manual.

#### POINT OF ORDER

Senator Rockefeller: "Mr. President, I respectfully request that you rule that amendment 367 to Engrossed Substitute House Bill No. 2116 is beyond the scope and object of the bill. Engrossed Substitute House Bill No. 2116 is a measure that revises our state's water pollution control revolving fund to do one thing: It would add grants and forgiveness of principal and negative interests to allowable uses of the fund. In order to allow our state to take full advantage of federal stimulus funding, I believe some sixty-five million dollars in total, that's now available to our state for water quality purposes. The floor amendment does not in any manner address the state fund or the criteria for administering the fund. Instead, it would declare that certain activities are not subject to certain requirements in the administrative manual of the Department of Ecology issued for guidance in the control of storm water and, therefore, Mr. President, it would appear that this amendment is well beyond the scope of the bill and I respectfully request that you so rule."

#### RULING BY THE PRESIDENT

President Owen: "Senator Rockefeller, in, relative to your point of order, the arguments you make are quite clear that this amendment is well beyond the scope and object of the bill and I don't believe it's necessary for the President to go into great detail on that. It's so far beyond the scope. Point is well taken."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Environment, Water & Energy as amended to Engrossed Substitute House Bill No. 2116.

The motion by Senator Rockefeller carried and the committee striking amendment as amended was adopted by voice vote.

#### MOTION

There being no objection, the following title amendments were adopted:

On page 8, line 24 of the title amendment, after "90.50A.060," strike "and 90.48.110" and insert "90.48.110, 70.146.070, and 90.48.290"

#### MOTION

On motion of Senator Rockefeller, the rules were suspended, Engrossed Substitute House Bill No. 2116 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Rockefeller and Honeyford spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2116 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2116 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 1; Absent, 0; Excused, 1.

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Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senator Holmquist

Excused: Senator Fairley

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2116 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2222, by House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Blake, Kretz, Short, Eddy, Smith, Takko, Hinkle, Hudgins, Springer, Herrera, Morris, Warnick, Williams and Chandler)

Concerning construction and industrial storm water general permits. Revised for 1st Substitute: Creating a technical assistance program for industrial and construction storm water permit permittees. (REVISED FOR ENGROSSED: Regarding conditioning industrial storm water general discharge permits. )

The measure was read the second time.

## MOTION

Senator Rockefeller moved that the following committee striking amendment by the Committee on Environment, Water & Energy be adopted.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 90.48.555 and 2004 c 225 s 2 are each amended to read as follows:

The provisions of this section apply to the construction and industrial storm water general permits issued by the department pursuant to the federal clean water act, 33 U.S.C. Sec. 1251 et seq., and this chapter.

(1) Effluent limitations shall be included in construction and industrial storm water general permits as required under the federal clean water act, 33 U.S.C. Sec. 1251 et seq., and its implementing regulations. In accordance with federal clean water act requirements, pollutant specific, water quality-based effluent limitations shall be included in construction and industrial storm water general permits if there is a reasonable potential to cause or contribute to an excursion of a state water quality standard.

(2) Subject to the provisions of this section, both technology and water quality-based effluent limitations may be expressed as:

- (a) Numeric effluent limitations;
- (b) Narrative effluent limitations; or
- (c) A combination of numeric and narrative effluent discharge limitations.

(3) The department must condition storm water general permits for industrial and construction activities issued under the national pollutant discharge elimination system of the federal clean water act to require compliance with numeric effluent discharge limits when such discharges are subject to:

- (a) Numeric effluent limitations established in federally adopted, industry-specific effluent guidelines;
- (b) State developed, industry-specific performance-based numeric effluent limitations;

(c) Numeric effluent limitations based on a completed total maximum daily load analysis or other pollution control measures; or

(d) A determination by the department that:

(i) The discharges covered under either the construction or industrial storm water general permits have a reasonable potential to cause or contribute to violation of state water quality standards; and

(ii) Effluent limitations based on nonnumeric best management practices are not effective in achieving compliance with state water quality standards.

(4) In making a determination under subsection (3)(d) of this section, the department shall use procedures that account for:

(a) Existing controls on point and nonpoint sources of pollution;

(b) The variability of the pollutant or pollutant parameter in the storm water discharge; and

(c) As appropriate, the dilution of the storm water in the receiving waters.

(5) Narrative effluent limitations requiring both the implementation of best management practices, when designed to satisfy the technology and water quality-based requirements of the federal clean water act, 33 U.S.C. Sec. 1251 et seq., and compliance with water quality standards, shall be used for construction and industrial storm water general permits, unless the provisions of subsection (3) of this section apply.

(6) Compliance with water quality standards shall be presumed, unless discharge monitoring data or other site specific information demonstrates that a discharge causes or contributes to violation of water quality standards, when the permittee is:

(a) In full compliance with all permit conditions, including planning, sampling, monitoring, reporting, and recordkeeping conditions; and

(b)(i) Fully implementing storm water best management practices contained in storm water technical manuals approved by the department, or practices that are demonstrably equivalent to practices contained in storm water technical manuals approved by the department, including the proper selection, implementation, and maintenance of all applicable and appropriate best management practices for on-site pollution control.

(ii) For the purposes of this section, "demonstrably equivalent" means that the technical basis for the selection of all storm water best management practices are documented within a storm water pollution prevention plan. The storm water pollution prevention plan must document:

(A) The method and reasons for choosing the storm water best management practices selected;

(B) The pollutant removal performance expected from the practices selected;

(C) The technical basis supporting the performance claims for the practices selected, including any available existing data concerning field performance of the practices selected;

(D) An assessment of how the selected practices will comply with state water quality standards; and

(E) An assessment of how the selected practices will satisfy both applicable federal technology-based treatment requirements and state requirements to use all known, available, and reasonable methods of prevention, control, and treatment.

(7)(a) By November 1, 2009, the department shall modify or reissue the industrial storm water general permit to require compliance ((by May 1, 2009;)) with appropriately derived numeric water quality-based effluent limitations for existing discharges to water bodies listed as impaired according to 33 U.S.C. Sec. 1313(d) (Sec. 303(d) of the federal clean water act, 33 U.S.C. Sec. 1251 et seq.).

(b) ((No later than September 1, 2008;)) The industrial storm water general permit must require permittees to comply

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with appropriately derived numeric water quality-based effluent limitations in the permit, as described in (a) of this subsection, by no later than six months after the effective date of the modified or reissued industrial storm water general permit.

(c) For permittees that the department determines are unable to comply with the numeric water quality-based effluent limitations required by (a) of this subsection, within the timeline established in (b) of this subsection, the department shall establish a compliance schedule as follows:

(i) Any compliance schedule provided by the department must require compliance as soon as possible, and must require compliance by no later than twenty-four months, or two wet seasons, after the effective date of the industrial storm water general permit. For purposes of this subsection (7)(c)(i), "wet seasons" means October 1st through June 30th.

(ii) The department shall post on its web site the name, location, industrial storm water permit number, and the reason for requesting a compliance schedule for each permittee who requests a compliance schedule according to this subsection (7)(c). The department shall post this information no later than thirty days after receiving a permittee's request for a compliance schedule under this subsection (7)(c). The department shall also prepare a list of organizations and individuals seeking to be notified when such requests for compliance schedules are made, and notify them within thirty days after receiving a permittee's request for a compliance schedule. Notification under this subsection may be accomplished electronically.

(d) The department shall report to the appropriate committees of the legislature specifying how the numeric effluent limitation in (a) of this subsection would be implemented. The report shall identify the number of dischargers to impaired water bodies and provide an assessment of anticipated compliance with the numeric effluent limitation established by (a) of this subsection.

(8)(a) Construction and industrial storm water general permits issued by the department shall include an enforceable adaptive management mechanism that includes appropriate monitoring, evaluation, and reporting. The adaptive management mechanism shall include elements designed to result in permit compliance and shall include, at a minimum, the following elements:

- (i) An adaptive management indicator, such as monitoring benchmarks;
- (ii) Monitoring;
- (iii) Review and revisions to the storm water pollution prevention plan;
- (iv) Documentation of remedial actions taken; and
- (v) Reporting to the department.

(b) Construction and industrial storm water general permits issued by the department also shall include the timing and mechanisms for implementation of treatment best management practices.

(9) Construction and industrial storm water discharges authorized under general permits must not cause or have the reasonable potential to cause or contribute to a violation of an applicable water quality standard. Where a discharge has already been authorized under a national pollutant discharge elimination system storm water permit and it is later determined to cause or have the reasonable potential to cause or contribute to the violation of an applicable water quality standard, the department may notify the permittee of such a violation.

(10) Once notified by the department of a determination of reasonable potential to cause or contribute to the violation of an applicable water quality standard, the permittee must take all necessary actions to ensure future discharges do not cause or contribute to the violation of a water quality standard and document those actions in the storm water pollution prevention plan and a report timely submitted to the department. If violations remain or recur, coverage under the construction or

industrial storm water general permits may be terminated by the department, and an alternative general permit or individual permit may be issued. Compliance with the requirements of this subsection does not preclude any enforcement activity provided by the federal clean water act, 33 U.S.C. Sec. 1251 et seq., for the underlying violation.

(11) Receiving water sampling shall not be a requirement of an industrial or construction storm water general permit except to the extent that it can be conducted without endangering the health and safety of persons conducting the sampling.

(12) The department may authorize mixing zones only in compliance with and after making determinations mandated by the procedural and substantive requirements of applicable laws and regulations.

NEW SECTION. Sec. 2. A new section is added to chapter 90.48 RCW to read as follows:

(1) As funding to do so becomes available, the department shall create a storm water technical resource center in partnership with a university, nonprofit organization, or other public or private entity to provide tools for storm water management. The center shall use its authority to support the duties listed in this subsection through research, development, technology demonstration, technology transfer, education, outreach, recognition, and training programs. The center may:

- (a) Review and evaluate emerging storm water technologies;
- (b) Research and develop innovative and cost-effective technical solutions to remove pollutants from runoff and to reduce or eliminate storm water discharges;
- (c) Conduct pilot projects to test technical solutions;
- (d) Serve as a clearinghouse and outreach center for information on storm water technology;
- (e) Assist in the development of storm water control methods to better protect water quality, including source control, product substitution, pollution prevention, and storm water treatment;
- (f) Coordinate with federal, state, and local agencies and private organizations in administering programs related to storm water control measures; and
- (g) Collaborate with existing storm water outreach programs.

(2) The department shall consult with an advisory committee in the development of the storm water technical resource center. The advisory committee must include representatives from relevant state agencies, local governments, the business community, the environmental community, tribes, and the building and development industry.

(3) The department, in consultation with the storm water technical resource center advisory committee, shall identify a funding strategy for funding the storm water technical resource center.

(4) The department shall encourage all interested parties to help and support the technical resource center with in-kind services.

(5) The department shall prepare and submit a biennial progress report to the legislature.

NEW SECTION. Sec. 3. Section 1 of this act expires January 1, 2015."

#### MOTION

Senator Rockefeller moved that the following amendment by Senator Rockefeller to the committee striking amendment be adopted.

On page 3, line 38 of the amendment, after "two" insert "complete"

Senator Rockefeller spoke in favor of adoption of the amendment to the committee striking amendment.

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The President declared the question before the Senate to be the adoption of the amendment by Senator Rockefeller on page 3, line 38 to the committee striking amendment to Engrossed Substitute House Bill No. 2222.

The motion by Senator Rockefeller carried and the amendment to the committee striking amendment was adopted by voice vote.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Environment, Water & Energy as amended to Engrossed Substitute House Bill No. 2222.

The motion by Senator Rockefeller carried and the committee striking amendment as amended was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "permits;" strike the remainder of the title and insert "amending RCW 90.48.555; adding a new section to chapter 90.48 RCW; and providing an expiration date."

MOTION

On motion of Senator Rockefeller, the rules were suspended, Engrossed Substitute House Bill No. 2222 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Rockefeller and Honeyford spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2222 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2222 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator Fairley

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2222 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 1021, by House Committee on Health & Human Services Appropriations (originally sponsored by Representatives Campbell, Morrell and Moeller)

Concerning prior notice of hospital surveys and audits. Revised for 2nd Substitute: Concerning notice of hospital audits.

The measure was read the second time.

MOTION

On motion of Senator Keiser, the rules were suspended, Second Substitute House Bill No. 1021 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

MOTION

On motion of Senator Eide, further consideration of Second Substitute House Bill No. 1021 was deferred and the bill held its place on the second reading calendar.

MOTION

At 2:38 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 3:10 p.m. by President Owen.

The Senate resumed consideration of Substitute House Bill No. 1778 which had been deferred earlier in the day.

MOTION

Without objection, Senator Jacobsen moved that the following committee striking amendment by the Committee on Natural Resources, Ocean & Recreation be not adopted.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 77.15.050 and 1998 c 190 s 6 are each amended to read as follows:

(1) Unless the context clearly requires otherwise, as used in this chapter, "conviction" means:

(a) A final conviction in a state or municipal court;  
 (b) A failure to appear at a hearing to contest an infraction or criminal citation; or

(c) An unvacated forfeiture of bail paid as a final disposition for an offense ~~((or an unvacated forfeiture of bail or collateral deposited to secure the defendant's appearance in court)).~~

(2) A plea of guilty, or a finding of guilt for a violation of this title or rule of the commission or director constitutes a conviction regardless of whether the imposition of sentence is deferred or the penalty is suspended.

Sec. 2. RCW 77.15.700 and 2007 c 163 s 2 are each amended to read as follows:

(1) The department shall impose revocation and suspension of privileges in the following circumstances:

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

~~((+))~~ (b) Upon conviction of a violation not involving commercial fishing, if the department finds that actions of the defendant demonstrated a willful or wanton disregard for conservation of fish or wildlife. ~~((Such))~~ Suspension of privileges under this subsection may be permanent. ~~((This subsection (2) does not apply to violations involving commercial fishing;~~

~~(3))~~ (c) If a person is convicted twice within ten years for a violation involving unlawful hunting, killing, or possessing big game~~((the department shall order))~~, Revocation and suspension ~~((of))~~ under this subsection must be ordered for all hunting privileges for two years. ~~((RCW 77.12.722 or 77.16.050 as it existed before June 11, 1998, may comprise one of the convictions constituting the basis for revocation and suspension under this subsection;~~

~~(4)(a))~~ (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

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uncontested notice of infraction~~((s));~~ ~~((iii))~~ fails to appear at a hearing to contest ~~((an))~~ a fish and wildlife infraction~~((s));~~ or ~~((iv))~~ is found to have committed an infraction ~~((three times in ten years involving any violation of recreational hunting or fishing laws or rules, the department shall order a)).~~ Revocation and suspension under this subsection must be ordered of all recreational hunting and fishing privileges for two years.

~~((b))~~ ~~((2))~~(a) A violation punishable as an infraction counts towards the revocation and suspension of recreational hunting and fishing privileges ~~((only where))~~ 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 ~~((1) or (2))~~; WAC 220-56-116; WAC 220-56-315(11); or WAC 220-56-355 (1) through (4).

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

~~((5))~~ ~~((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, except for a violation of RCW 77.15.400 (1) through (3), the department may revoke all hunting licenses and tags and may order a suspension of ~~((one))~~ either or both the deferred education licensee's and the nondeferred accompanying person's hunting privileges for one year.

**Sec. 3.** RCW 77.15.310 and 2003 c 39 s 38 are each amended to read as follows:

(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 ~~((77.55.040 or 77.55.320))~~ 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.

**Sec. 4.** RCW 77.15.320 and 2000 c 107 s 241 are each amended to read as follows:

(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 ~~((77.55.060))~~ 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.

**Sec. 5.** RCW 77.15.610 and 1998 c 190 s 33 are each amended to read as follows:

(1) A person who holds a fur buyer's license or taxidermy license is guilty of unlawful use of a commercial wildlife license if the person:

(a) Fails to have the license in possession while engaged in fur buying or practicing taxidermy for commercial purposes; or

(b) Violates any rule of the department regarding reporting requirements or the use, possession, display, or presentation of the taxidermy or fur buyer's license.

(2) Unlawful use of a commercial wildlife license is a misdemeanor.

**Sec. 6.** RCW 77.32.470 and 2008 c 35 s 1 are each amended to read as follows:

(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 thirty-six dollars for residents, seventy-two 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 eighteen dollars for residents, thirty-six 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 dollars for residents, forty dollars for nonresidents, and five dollars for resident seniors.

(3)(a) A temporary combination fishing license is valid for one to five 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 - Seven dollars for residents and fourteen dollars for nonresidents;

(ii) Two days - Ten dollars for residents and twenty dollars for nonresidents;

(iii) Three days - Thirteen dollars for residents and twenty-six dollars for nonresidents;

(iv) Four days - Fifteen dollars for residents and thirty dollars for nonresidents; and

(v) Five days - Seventeen dollars for residents and thirty-four dollars for nonresidents.

(b) The fee for a charter stamp is seven 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) A transaction fee to support the automated licensing system will be taken from the amounts set forth in this subsection for temporary licenses.

(d) 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.

(e) 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 provide a valid military identification card at the time of purchase of the temporary license to qualify for the resident rate.

(f) 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.



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(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 state wildlife account created in RCW 77.12.170 and used for the operation and maintenance of state-owned fish hatcheries. The fee for a two-pole stamp is twenty dollars for residents and nonresidents, and five dollars for resident seniors.

**Sec. 7.** RCW 77.65.010 and 2005 c 20 s 1 are each amended to read as follows:

(1) Except as otherwise provided by this title, a person ~~((may not))~~ must have a license or permit issued by the director in order to engage in any of the following activities ~~((without a license or permit issued by the director))~~:

(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 processing or wholesaling food fish or shellfish; or

(e) Act as a food fish guide ~~((for salmon))~~ for personal use in freshwater rivers and streams, ~~((other than that part of the Columbia river below the bridge at Longview))~~ 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 or permits 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 or permit 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 or permit requirements established by this subsection applies only if the aquatic products are identified in conformance with those rules.

**Sec. 8.** RCW 77.65.370 and 1998 c 190 s 98 are each amended to read as follows:

(1) A person shall not offer or perform the services of a ~~((professional salmon))~~ food fish guide without a food fish guide license in the taking of ~~((salmon))~~ food fish for personal use in freshwater rivers and streams, ~~((other than in that part of the Columbia river below the bridge at Longview, without a professional salmon guide license))~~ 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) Only an individual at least sixteen years of age may hold a ~~((professional salmon))~~ food fish guide license. No individual may hold more than one ~~((professional salmon))~~ food fish guide license.

**Sec. 9.** RCW 77.65.440 and 2000 c 107 s 55 are each amended to read as follows:

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)		Governing Section
	Resident	Nonresident	
(1) Alternate Operator	\$ 35	\$ 35	RCW 77.65.130
(2) Geoduck Diver	\$185	\$295	RCW 77.65.410
(3) <del>((Salmon))</del> Food Fish Guide	\$130	\$630	RCW 77.65.370
	(plus \$20)	(plus \$100)	

**Sec. 10.** RCW 77.15.510 and 2001 c 253 s 43 are each amended to read as follows:

(1) A person is guilty of ~~((commercial))~~ acting as a game fish ~~((guiding))~~ 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 ~~((professional salmon))~~ food fish guide and does not hold a ~~((professional salmon))~~ food fish guide license; or

(c) The person acts as a game fish guide and does not hold a game fish guide license.

(2) ~~((Commercial))~~ Acting without a game fish ~~((guiding or chartering without a))~~ guide license, food fish guide license, or charter license is a gross misdemeanor.

**Sec. 11.** RCW 77.65.480 and 1991 sp.s. c 7 s 4 are each amended to read as follows:

(1) A taxidermy license allows the holder to practice taxidermy for ~~((profit))~~ commercial purposes, as that term is defined in RCW 77.15.110. The fee for this license is one hundred eighty dollars.

(2) A fur dealer's license allows the holder to purchase, receive, or resell raw furs for ~~((profit))~~ commercial purposes, as that term is defined in RCW 77.15.110. The fee for this license is one hundred eighty dollars.

(3) A ~~((fishing))~~ game fish guide license allows the holder to offer or perform the services of a ~~((professional))~~ game fish guide in the taking of game fish. The fee for this license is one hundred eighty dollars for a resident and six hundred dollars for a nonresident.

(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.

(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.

(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.

(7)~~(a)~~ An anadromous game fish buyer's license allows the holder to purchase or sell steelhead trout and other anadromous game fish harvested by Indian ~~((fishermen))~~ fishers lawfully

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exercising fishing rights reserved by federal statute, treaty, or executive order, under conditions prescribed by rule of the director. The fee for this license is one hundred eighty dollars.

(b) An anadromous game fish buyer's license is not required for those businesses that buy steelhead trout and other anadromous game fish from Washington licensed game fish dealers and sell solely at retail.

**Sec. 12.** RCW 77.08.010 and 2008 c 277 s 2 are each amended to read as follows:

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 hand-held line operated without rod or reel.

(2) "Aquatic invasive species" means any invasive, prohibited, regulated, unregulated, or unlisted aquatic animal or plant species as defined under subsections ~~((48) through (53))~~ (3), (28), (40), (44), (58), and (59) of this section, aquatic noxious weeds as defined under RCW 17.26.020(5)(c), and aquatic nuisance species as defined under RCW 77.60.130(1).

(3) "Aquatic plant species" means an emergent, submersed, partially submersed, free-floating, or floating-leaving plant species that grows in or near a body of water or wetland.

(4) "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.

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

(6) "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.

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

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

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

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

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

(12) "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.

~~((2))~~ (13) "Department" means the department of fish and wildlife.

~~((3))~~ (14) "Director" means the director of fish and wildlife.

~~((4))~~ (15) "Endangered species" means wildlife designated by the commission as seriously threatened with extinction.

~~((5))~~ (16) "Ex officio fish and wildlife officer" means a commissioned officer of a municipal, county, state, or federal agency having as its primary function the enforcement of criminal laws in general, while the officer is in the appropriate jurisdiction. The term "ex officio fish and wildlife officer" includes special agents of the national marine fisheries service, state parks commissioned officers, United States fish and wildlife special agents, department of natural resources

enforcement officers, and United States forest service officers, while the agents and officers are within their respective jurisdictions.

~~((6))~~ (17) "Fish" includes all species classified as game fish or food fish by statute or rule, as well as all fin fish 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.

~~((7))~~ (18) "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.

~~((8))~~ (19) "Fish broker" means a person whose business it is to bring a seller of fish and shellfish and a purchaser of those fish and shellfish together.

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

~~((9))~~ (21) "Freshwater" means all waters not defined as saltwater including, but not limited to, rivers upstream of the river mouth, lakes, ponds, and reservoirs.

~~((10))~~ (22) "Fur-bearing animals" means game animals that shall not be trapped except as authorized by the commission.

~~((11))~~ (23) "Game animals" means wild animals that shall not be hunted except as authorized by the commission.

~~((12))~~ (24) "Game birds" means wild birds that shall not be hunted except as authorized by the commission.

~~((13))~~ (25) "Game farm" means property on which wildlife is held or raised for commercial purposes, trade, or gift. The term "game farm" does not include publicly owned facilities.

~~((14))~~ (26) "Game reserve" means a closed area where hunting for all wild animals and wild birds is prohibited.

~~((15))~~ (27) "Illegal items" means those items unlawful to be possessed.

(28) "Invasive species" means a plant species or a nonnative animal species that either:

(a) Causes or may cause displacement of, or otherwise threatens, native species in their natural communities;

(b) Threatens or may threaten natural resources or their use in the state;

(c) Causes or may cause economic damage to commercial or recreational activities that are dependent upon state waters; or

(d) Threatens or harms human health.

~~((16))~~ (29) "License year" means the period of time for which a recreational license is valid. The license year begins April 1st, and ends March 31st.

~~((17))~~ (30) "Limited-entry license" means a license subject to a license limitation program established in chapter 77.70 RCW.

~~((18))~~ (31) "Money" means all currency, script, personal checks, money orders, or other negotiable instruments.

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

~~((19))~~ (33) "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.

~~((20))~~ (34) "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, harvest, or possess by rule of the commission. "Open season" includes the first and last days of the established time.

~~((21))~~ (35) "Owner" means the person in whom is vested the ownership dominion, or title of the property.

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~~((32))~~ (36) "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.

~~((32))~~ (37) "Personal use" means for the private use of the individual taking the fish or shellfish and not for sale or barter.

~~((33))~~ (38) "Personal property" or "property" includes both corporeal and incorporeal personal property and includes, among other property, contraband and money.

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

~~((34))~~ (40) "Prohibited aquatic animal species" means an invasive species of the animal kingdom that has been classified as a prohibited aquatic animal species by the commission.

~~((35))~~ (41) "Protected wildlife" means wildlife designated by the commission that shall not be hunted or fished.

~~((36))~~ (42) "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.

~~((37))~~ (43) "Recreational and commercial watercraft" includes the boat, as well as equipment used to transport the boat, and any auxiliary equipment such as attached or detached outboard motors.

~~((38))~~ (44) "Regulated aquatic animal species" means a potentially invasive species of the animal kingdom that has been classified as a regulated aquatic animal species by the commission.

~~((39))~~ (45) "Resident" means:

(a) A 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, and who is not licensed to hunt or fish as a resident in another state; and

(b) A person age eighteen or younger who does not qualify as a resident under (a) of this subsection, but who has a parent that qualifies as a resident under (a) of this subsection.

~~((40))~~ (46) "Retail-eligible species" means commercially harvested salmon, crab, and sturgeon.

~~((41))~~ (47) "Saltwater" means those marine waters seaward of river mouths.

~~((42))~~ (48) "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.

~~((43))~~ (49) "Senior" means a person seventy years old or older.

~~((44))~~ (50) "Shellfish" means those species of marine and freshwater invertebrates that have been classified and that shall not be taken except as authorized by rule of the commission. The term "shellfish" includes all stages of development and the bodily parts of shellfish species.

~~((45))~~ (51) "State waters" means all marine waters and fresh waters within ordinary high water lines and within the territorial boundaries of the state.

~~((46))~~ (52) "To fish," "to harvest," and "to take," and their derivatives means an effort to kill, injure, harass, or catch a fish or shellfish.

~~((47))~~ (53) "To hunt" and its derivatives means an effort to kill, injure, capture, or harass a wild animal or wild bird.

~~((48))~~ (54) "To process" and its derivatives mean preparing or preserving fish, wildlife, or shellfish.

~~((49))~~ (55) "To trap" and its derivatives means a method of hunting using devices to capture wild animals or wild birds.

~~((50))~~ (56) "Trafficking" means offering, attempting to engage, or engaging in sale, barter, or purchase of fish, shellfish, wildlife, or deleterious exotic wildlife.

~~((51))~~ (57) "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.

(58) "Unlisted aquatic animal species" means a nonnative animal species that has not been classified as a prohibited aquatic animal species, a regulated aquatic animal species, or an unregulated aquatic animal species by the commission.

~~((52))~~ (59) "Unregulated aquatic animal species" means a nonnative animal species that has been classified as an unregulated aquatic animal species by the commission.

~~((53))~~ (60) "Wholesale fish dealer" means a person who, acting for commercial purposes, takes possession or ownership of fish or shellfish and sells, barter, or exchanges or attempts to sell, barter, or exchange fish or shellfish that have been landed into the state of Washington or entered the state of Washington in interstate or foreign commerce.

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

~~((54))~~ (62) "Wild birds" means those species of the class Aves whose members exist in Washington in a wild state.

~~((55))~~ (63) "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.

~~((56))~~ (64) "Youth" means a person fifteen years old for fishing and under sixteen years old for hunting.

**Sec. 13.** RCW 77.12.170 and 2005 c 418 s 3, 2005 c 225 s 4, 2005 c 224 s 4, and 2005 c 42 s 4 are each reenacted and amended to read as follows:

(1) There is established in the state treasury the state wildlife account which 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, and the sale of licenses, permits, tags, and stamps required by chapter 77.32 RCW and RCW 77.65.490, except annual resident adult saltwater and all annual razor clam and shellfish licenses, which shall be deposited into the state general fund;

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

(e) Fees for personalized vehicle, Wild on Washington, and Endangered Wildlife license plates and Washington's Wildlife license plate collection as provided in chapter 46.16 RCW;

(f) Articles or wildlife sold by the director under this title;

(g) Compensation for damage to department property or wildlife losses or contributions, gifts, or grants received under RCW 77.12.320. 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 pursuant to RCW 77.15.425;

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

(i) ~~(The sale of personal property seized by the department for fish, shellfish, or wildlife violations;~~

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

((\*) (j)) The sale of watchable wildlife decals under RCW 77.32.560.

(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 state wildlife account.

**NEW SECTION. Sec. 14.** A new section is added to chapter 77.15 RCW to read as follows:

(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) Permits covered under subsection (1) of this section include, but are not limited to, master hunter permits, 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. Permits excluded from subsection (1) of this section include fish and wildlife lands vehicle use permits, commercial use or activity permits, noncommercial use or activity permits, parking permits, experimental fishery permits, trial commercial fishery permits, and scientific collection permits.

(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.

**NEW SECTION. Sec. 15.** A new section is added to chapter 77.32 RCW to read as follows:

(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 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 program.

**NEW SECTION. Sec. 16.** A new section is added to chapter 77.15 RCW to read as follows:

(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.

**Sec. 17.** RCW 77.15.370 and 2005 c 406 s 3 are each amended to read as follows:

(1) A person is guilty of unlawful recreational fishing in the first degree if:

(a) The person takes, possesses, or retains 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, possessed, or retained 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 rule of the commission or director; ((or))

(d) The person fishes for or possesses a fish listed as threatened or endangered in 50 C.F.R. Sec. 17.11 (2002), unless fishing for or possession of such fish is specifically allowed under federal or state law; or

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(e) The person possesses a sturgeon measuring in excess of the maximum size limit as established by rules adopted by the department.

(2) Unlawful recreational fishing in the first degree is a gross misdemeanor.

**Sec. 18.** RCW 77.15.425 and 2006 c 148 s 2 are each amended to read as follows:

The fish and wildlife enforcement reward account is created in the custody of the state treasurer. ~~((All receipts from criminal wildlife penalty assessments under RCW 77.15.420 and 77.15.400 must be deposited into the account.))~~ 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 RCW 77.15.400 and 77.15.420; 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 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.

**Sec. 19.** RCW 77.15.568 and 2007 c 337 s 4 are each amended to read as follows:

(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 or holds fish or shellfish for another in exchange for valuable consideration, ships fish or shellfish in exchange for valuable consideration, or brokers fish or shellfish in exchange for valuable consideration;

(b) The fish or shellfish were required to be entered on a Washington fish receiving ticket or a Washington aquatic farm production annual report; 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 the location where the fish or shellfish are being sold, at the location where the fish or shellfish are being stored or held, or at the principal place of business of the shipper or broker.

(2) This section ~~((does not apply))~~ applies to a wholesale fish dealer~~(-)~~ acting in the capacity of a broker. However, this section does not apply to a wholesale fish dealer acting in the capacity of a wholesale fish dealer, to a fisher selling under a direct retail sale endorsement, or to a registered aquatic farmer.

(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 must include the following:

(a) The name, address, and phone number of the wholesale fish dealer, fisher selling under a direct retail sale endorsement, or aquatic farmer or shellstock shipper from whom the fish or shellfish were purchased or received;

(b) The Washington fish receiving ticket number documenting original receipt or aquatic farm production quarterly report documenting production, if available;

(c) The date of purchase or receipt; and

(d) The amount and species of fish or shellfish purchased or received.

(5) Records maintained by persons that store, hold, or ship fish or shellfish for others must state the following:

(a) The name, address, and phone number of the person and business from whom the fish or shellfish were received;

(b) The date of receipt; and

(c) The amount and species of fish or shellfish received.

(6) A secondary commercial fish receiver's failure to account for commercial harvest is a misdemeanor.

**Sec. 20.** RCW 77.15.620 and 2002 c 301 s 7 are each amended to read as follows:

(1) A person is guilty of engaging in fish dealing activity without a license in the second degree if the person:

(a) Engages in the commercial processing of fish or shellfish, including custom canning or processing of personal use fish or shellfish and does not hold a wholesale dealer's license required by RCW 77.65.280(1) or 77.65.480 for anadromous game fish, or a direct retail endorsement under RCW 77.65.510;

(b) Engages in the wholesale selling, buying, or brokering of food fish or shellfish and does not hold a wholesale dealer's or buying license required by RCW 77.65.280(2) or 77.65.480 for anadromous game fish;

(c) Is a fisher who lands and sells his or her catch or harvest in the state to anyone other than a licensed wholesale dealer within or outside the state and does not hold a direct retail endorsement required by RCW 77.65.510; or

(d) Engages in the commercial manufacture or preparation of fertilizer, oil, meal, caviar, fish bait, or other byproducts from food fish or shellfish and does not hold a wholesale dealer's license required by RCW 77.65.280(4) or 77.65.480 for anadromous game fish.

(2) Engaging in fish dealing activity without a license in the second degree is a gross misdemeanor.

(3) 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: (a) Fish or shellfish worth two hundred fifty dollars or more; (b) a failure to document such fish or shellfish with a fish receiving ticket or other documentation required by statute or rule of the department; or (c) violates any other rule of the department regarding wholesale fish buying and dealing. Engaging in fish dealing activity without a license in the first degree is a class C felony.

**Sec. 21.** RCW 77.12.870 and 2002 c 20 s 3 are each amended to read as follows:

(1) The department, in consultation with the Northwest straits commission, the department of natural resources, and other interested parties, must create and maintain a database of known derelict fishing gear, including the type of gear and its location.

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

~~((3) The department, in consultation with fishing industry groups and tribal comanagers, must evaluate methods to reduce future losses of fishing gear and report the results of this evaluation to the appropriate legislative committees by January 1, 2003.))~~

**Sec. 22.** RCW 77.12.879 and 2007 c 350 s 3 are each amended to read as follows:

(1) The aquatic invasive species prevention account is created in the state treasury. Moneys directed to the account

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from RCW 88.02.050 must be deposited in the account. Expenditures from the account may only be used as provided in this section. Moneys in the account may be spent only after appropriation.

(2) Funds in the aquatic invasive species prevention account may be appropriated to the department to develop an aquatic invasive species prevention program for recreational and commercial watercraft. Funds must be expended as follows:

(a) To inspect recreational and commercial watercraft;

(b) To educate general law enforcement officers on how to enforce state laws relating to preventing the spread of aquatic invasive species;

(c) To evaluate and survey the risk posed by recreational and commercial watercraft in spreading aquatic invasive species into Washington state waters;

(d) To evaluate the risk posed by float planes in spreading aquatic invasive species into Washington state waters; and

(e) To implement an aquatic invasive species early detection and rapid response plan. The plan must address the treatment and immediate response to the introduction to Washington waters of aquatic invasive species. Agency and public review of the plan must be conducted under chapter 43.21C RCW, the state environmental policy act. If the implementation measures or actions would have a probable significant adverse environmental impact, a detailed statement under chapter 43.21C RCW must be prepared on the plan.

(3) Funds in the aquatic invasive species enforcement account created in RCW 43.43.400 may be appropriated to the department and Washington state patrol to develop an aquatic invasive species enforcement program for recreational and commercial watercraft. The department shall provide training to Washington state patrol employees working at port of entry weigh stations, and other local law enforcement employees, on how to inspect recreational and commercial watercraft for the presence of aquatic invasive species. A person who enters Washington transporting any commercial or recreational watercraft that has been used in any designated aquatic invasive species state or foreign country as defined by rule of the department must have in his or her possession valid documentation that the watercraft has been inspected and found free of aquatic invasive species. The department is authorized to require persons transporting recreational and commercial watercraft to stop at check stations. Check stations must be plainly marked by signs, operated by at least one uniformed fish and wildlife officer, and operated in a safe manner. Any person stopped at a check station who possesses a recreational or commercial watercraft that has been used in any designated aquatic invasive species state or foreign country as defined by rule of the department, or that is contaminated with aquatic invasive species, must bear the expense for any necessary impoundment, transportation, cleaning, and decontamination of the watercraft. Any person stopped at a check station who possesses a recreational or commercial watercraft that has been used in any designated aquatic invasive species state or foreign country as defined by rule of the department, or that is contaminated with aquatic invasive species, is exempt from the criminal penalties found in RCW 77.15.253 and 77.15.290, and forfeiture under RCW 77.15.070, if that person complies with all department directives for the proper decontamination of the watercraft and equipment.

(4) The department shall submit a biennial report to the appropriate legislative committees describing the actions taken to implement this section along with suggestions on how to better fulfill the intent of chapter 464, Laws of 2005. ~~((The first report is due December 1, 2007.))~~

**Sec. 23.** RCW 77.60.150 and 2001 c 273 s 1 are each amended to read as follows:

(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 ~~((4))~~ (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 shall submit a brief progress report on the status of the pilot programs to the appropriate standing committees of the legislature by January 7, 2007.~~

~~((4))~~ 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 ~~((79.96.090))~~ 79.135.300. Vacation of state oyster reserves by the department ~~((of fish and wildlife))~~ 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 of ~~((fish and wildlife))~~ may not assess charges to recover the costs of consulting with the department of natural resources under this subsection.

~~((5))~~ (4) The Puget Sound pilot program shall not include the culture of geoduck.

**Sec. 24.** RCW 77.85.230 and 2003 c 391 s 5 are each amended to read as follows:

(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 saltwater through the underground drainage system; the role of tide gates in drainage systems, including relieving excess water from saturated soil and providing

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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.

**Sec. 25.** RCW 77.85.050 and 2005 c 309 s 6 are each amended to read as follows:

(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 identify 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 WRIs, 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))~~ salmon recovery funding board in accordance with procedures adopted by the board.

**Sec. 26.** RCW 77.120.030 and 2007 c 350 s 10 are each amended to read as follows:

(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 ~~((the ballast water work group, or similar))~~ 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 ~~((state))~~, 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.

**Sec. 27.** RCW 77.120.110 and 2007 c 350 s 14 are each amended to read as follows:

(1) The ballast water 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.

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(2) Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only to carry out the purposes of this chapter or support the goals of this chapter through research and monitoring except:

(a) Expenditures may not be used for the salaries of permanent department employees; and

(b) Penalties deposited into the account may be used ~~(in consultation with the ballast water work group created in section 11 of this act,)~~ only to support basic and applied research and carry out education and outreach related to the state's ballast water management.

**Sec. 28.** RCW 77.120.120 and 2007 c 350 s 15 are each amended to read as follows:

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. ~~((Such testing and research shall be reviewed by the ballast water work group, who may make recommendations to the department.))~~ 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.

**Sec. 29.** RCW 77.95.200 and 1998 c 251 s 2 are each amended to read as follows:

(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 ~~((completed by July 1, 1999, and))~~ updated annually ~~((thereafter))~~.

(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. ~~((The director and the secretary of the department of corrections shall jointly investigate the potential of producing remote site incubators through the prison industries program of the department of corrections, and shall jointly report their finding to the natural resources committees of the house of representatives and the senate by December 1, 1999.))~~

(5) The department shall investigate the use of the remote site incubator technology for the production of warm water fish.

(6) ~~((The department shall evaluate the initial results of the program and report to the legislature by December 1, 2000.))~~ Annual reports on the progress of the program shall be provided to the fish and wildlife commission.

**Sec. 30.** RCW 77.95.310 and 1997 c 414 s 1 are each amended to read as follows:

~~((Beginning September 1, 1998, and each September 1st thereafter,))~~ (1) The department shall ~~((submit))~~ maintain a report ~~((to the appropriate standing committees of the legislature))~~ identifying ~~((the))~~ total salmon and steelhead harvest ~~((of the preceding season))~~. This report shall include the final commercial harvests and recreational harvests. At a minimum, the report shall clearly identify:

~~((1))~~ (a) The total treaty tribal and nontribal harvests by species and by management unit;

~~((2))~~ (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

~~((3))~~ (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.

**Sec. 31.** RCW 77.12.184 and 2000 c 252 s 1 are each amended to read as follows:

(1) The department shall deposit all moneys received from the following activities into the state wildlife ~~((fund))~~ account created in RCW 77.12.170:

(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.

**Sec. 32.** RCW 77.12.190 and 1991 sp.s. c 31 s 17 are each amended to read as follows:

Moneys in the state wildlife ~~((fund))~~ 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.

**Sec. 33.** RCW 77.12.210 and 2000 c 107 s 218 are each amended to read as follows:

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 state wildlife ~~((fund))~~ account created in RCW 77.12.170; 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.



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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 state wildlife ~~((fund))~~ account created in RCW 77.12.170.

**Sec. 34.** RCW 77.12.230 and 1987 c 506 s 32 are each amended to read as follows:

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 state wildlife ~~((fund))~~ account created in RCW 77.12.170 to the department.

**Sec. 35.** RCW 77.12.323 and 1987 c 506 s 42 are each amended to read as follows:

(1) There is established in the state wildlife ~~((fund))~~ account created in RCW 77.12.170 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 director may advise the state treasurer and the state investment board of a surplus in the special wildlife account above the current needs. The state investment board may invest and reinvest the surplus, as the commission deems appropriate, in an investment authorized by RCW 43.84.150 or in securities issued by the United States government as defined by RCW 43.84.080 (1) and (4). Income received from the investments shall be deposited to the credit of the special wildlife account.

**Sec. 36.** RCW 77.12.380 and 1987 c 506 s 44 are each amended to read as follows:

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 state wildlife ~~((fund))~~ account created in RCW 77.12.170 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.

**Sec. 37.** RCW 77.12.390 and 1987 c 506 s 45 are each amended to read as follows:

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 state wildlife ~~((fund))~~ account created in RCW 77.12.170 in favor of the fund for which the withdrawn lands are held.

**Sec. 38.** RCW 77.12.690 and 1998 c 245 s 158 and 1998 c 191 s 33 are each reenacted and amended to read as follows:

The migratory waterfowl art committee is responsible for the selection of the annual migratory bird stamp design and shall provide the design to the department. If the committee does not perform this duty within the time frame necessary to achieve proper and timely distribution of the stamps to license dealers, the director shall initiate the art work selection for that year. The committee shall create collector art prints and related artwork, utilizing the same design as provided to the department. 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 migratory waterfowl art committee.

The total amount brought in from the sale of prints and related artwork shall be deposited in the state wildlife ~~((fund))~~

account created in RCW 77.12.170. The costs of producing and marketing of prints and related artwork, including administrative expenses mutually agreed upon by the committee and the director, 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.

The migratory waterfowl art committee shall have an annual audit of its finances conducted by the state auditor and shall furnish a copy of the audit to the commission.

**Sec. 39.** RCW 77.15.100 and 2000 c 107 s 235 are each amended to read as follows:

(1) Unless otherwise provided in this title, fish, shellfish, or wildlife unlawfully taken or possessed, or involved in a violation shall be forfeited to the state upon conviction. Unless already held by, sold, destroyed, or disposed of by the department, the court shall order such fish or wildlife to be delivered to the department. Where delay will cause loss to the value of the property and a ready wholesale buying market exists, the department may sell property to a wholesale buyer at a fair market value.

(2) When seized property is forfeited to the department, 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 the property to the agency for the use of enforcing this title, or sell such property and deposit the proceeds into the ~~((state wildlife fund))~~ fish and wildlife enforcement reward account established under RCW ~~((77.12.170))~~ 77.15.425. Any sale of other property shall be at public auction or after public advertisement reasonably designed to obtain the highest price. The time, place, and manner of holding the sale shall be determined by the director. The director may contract for the sale to be through the department of general administration as state surplus property, or, except where not justifiable by the value of the property, the director shall publish notice of the sale once a week for at least two consecutive weeks before the sale in at least one newspaper of general circulation in the county in which the sale is to be held.

**Sec. 40.** RCW 77.32.430 and 2005 c 192 s 2 are each amended to read as follows:

(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. There is no charge for an initial catch record card. Each subsequent or duplicate catch record card costs ten 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 three dollars, including any or all fees authorized under RCW 77.32.050, when purchased for a personal use saltwater, combination, or shellfish and seaweed license. The endorsement shall cost no more than one dollar, including any or all fees authorized under RCW 77.32.050, 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 not 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

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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) The department shall include provisions for recording marked and unmarked salmon in catch record cards issued after March 31, 2004.

(5) The funds received from the sale of catch record cards and the Dungeness crab endorsement must be deposited into the state wildlife ~~((fund))~~ account created in RCW 77.12.170. The funds received from the Dungeness crab endorsement may be used only for the sampling, monitoring, and management of catch associated with the Dungeness crab recreational fisheries. Moneys allocated under this section shall supplement and not supplant other federal, state, and local funds used for Dungeness crab recreational fisheries management.

**Sec. 41.** RCW 77.32.530 and 1996 c 101 s 5 are each amended to read as follows:

(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 ~~((fifteen))~~ 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 state wildlife ~~((fund))~~ account created in RCW 77.12.170. The revenues shall be used to improve ~~((the habitat, health, and welfare of the species auctioned or raffled))~~ game management and shall supplement, rather than replace, other funds budgeted for management of ~~((that))~~ 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.

**Sec. 42.** RCW 77.32.560 and 2003 c 317 s 2 are each amended to read as follows:

(1) The department may sell watchable wildlife decals. Proceeds from the sale of the decal must be deposited into the state wildlife ~~((fund))~~ account created in RCW 77.12.170 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. A person who purchases a watchable wildlife decal must be issued one vehicle use permit free of charge.

**Sec. 43.** RCW 77.44.050 and 1999 c 235 s 1 are each amended to read as follows:

The warm water game fish account is hereby created in the state wildlife ~~((fund))~~ account created in RCW 77.12.170. 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 replacement funding for department-operated warm water fish projects existing on December 31, 1994 ~~((except that an amount not to exceed ninety-one thousand dollars may be used for warm water fish culture at the Rod Meseberg warm water fish production facility during the biennium ending June 30, 2001))~~.

**NEW SECTION. Sec. 44.** 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

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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.

**NEW SECTION. Sec. 45.** 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.

**NEW SECTION. Sec. 46.** 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.

**NEW SECTION. Sec. 47.** 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.

**NEW SECTION. Sec. 48.** (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.

**NEW SECTION. Sec. 49.** 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.

**NEW SECTION. Sec. 50.** Sections 44 through 49 of this act constitute a new chapter in Title 77 RCW.

**NEW SECTION. Sec. 51.** RCW 77.12.065 (Wildlife viewing tourism) and 2003 c 183 s 1 are each repealed.

**Sec. 52.** RCW 77.12.820 and 1997 c 422 s 5 are each amended to read as follows:

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. ~~(Not less than eighty percent of expenditures from the account must be used 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.

**NEW SECTION. Sec. 53.** (1) The legislature finds that healthy wildlife populations are a valuable and treasured public resource to the people of the state of Washington. However, the legislature also finds that as the human population increases and encroaches on wildlife habitat, interactions between humans and wildlife will become more frequent.

(2) The legislature further finds that interactions between humans and wildlife can have significant financial impacts on the affected landowner. Although the resulting wildlife damage is felt most closely by the landowner, the general public, as beneficiaries and stewards of healthy wildlife populations, should bear some responsibility, as outlined in and limited by this act, for providing a measure of restitution to the impacted landowner, provided that the landowner has exhausted all legal, practicable self-help methods available to prevent wildlife damage from occurring.

(3) The legislature further finds that the commercial agriculture, horticulture, and livestock industries are important components of the state economy that can be negatively impacted by interactions with wildlife. However, the legislature also finds that other landowners, both commercial and residential, may be faced with wildlife interactions that result in property damage. It is the intent of the legislature to craft a solution whereby all property owners have a potential avenue to petition the state for some mitigation of the damages caused by wildlife.

(4) The legislature further finds that it is in the best interests of the state for the department of fish and wildlife to respond quickly to wildlife damage complaints and to work with those affected to prevent and minimize negative interactions while maintaining healthy wildlife populations.

(5) The legislature further finds that negative wildlife interactions can be best reduced by encouraging landowners to contribute, through their land management practices, to healthy wildlife populations and to provide access for related recreation.

**Sec. 54.** RCW 77.36.010 and 1996 c 54 s 2 are each amended to read as follows:

~~((Unless otherwise specified,))~~ The ((following)) 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 ((commercially raised)) horticultural ((and/or)) or agricultural product ((and includes)), including the growing or harvested product ((but does not include livestock)).~~ For the purposes of this chapter all parts of horticultural trees shall be considered a commercial crop and shall be eligible for claims.

~~((2) "Emergency" means an unforeseen circumstance beyond the control of the landowner or tenant that presents a real and immediate threat to crops, domestic animals, or fowl.))~~

(3) "Commercial livestock" means cattle, sheep, and horses held or raised by a person for sale.

(4) "Compensation" means a cash payment, materials, or service.

(5) "Damage" means economic losses caused by wildlife interactions.

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(6) "Immediate family member" means spouse, state registered domestic partner, brother, sister, grandparent, parent, child, or grandchild.

(7) "Owner" means a person who has a legal right to commercial crops, commercial livestock, or other property that has been damaged during a wildlife interaction.

(8) "Wildlife interaction" means the negative interaction and the resultant damage between wildlife and commercial crops, commercial livestock, or other property.

NEW SECTION. Sec. 55. A new section is added to chapter 77.36 RCW to read as follows:

(1)(a) Except as limited by RCW 77.36.070 and 77.36.080, 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 commercial 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 commercial livestock has been diminished. Payments for claims for damage to commercial livestock are not subject to the limitations of RCW 77.36.070 and 77.36.080, but may not exceed the total amount specifically appropriated therefor.

(b) Owners of commercial crops or commercial livestock are only eligible for a claim under this subsection if:

(i) The owner satisfies the definition of "eligible farmer" in RCW 82.08.855;

(ii) The conditions of section 56 of this act have been satisfied; and

(iii) The damage caused to the commercial crop or commercial livestock satisfies the criteria for damage established by the commission under this subsection.

(c) The commission shall adopt and maintain by rule criteria that clarifies the damage to commercial crops and commercial livestock qualifying for compensation under this subsection. An owner of a commercial crop or commercial 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 commercial livestock, which may not be set at a value of less than five hundred dollars.

(2)(a) The department may offer to provide noncash compensation only to offset wildlife interactions to a person who applies to the department for compensation for damage to property other than commercial crops or commercial livestock that is the result of a mammalian or avian species of wildlife on a case-specific basis if the conditions of section 56 of this act have been satisfied and if the damage satisfies the criteria for damage established by the commission under this subsection.

(b) The commission shall adopt and maintain by rule criteria for damage to property other than a commercial crop or commercial 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 subsection.

(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.

NEW SECTION. Sec. 56. A new section is added to chapter 77.36 RCW to read as follows:

(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 section 55 of this act; 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.

(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 preventative efforts undertaken and all permits issued by the department under RCW 77.12.240 and 77.12.150.

NEW SECTION. Sec. 57. A new section is added to chapter 77.36 RCW to read as follows:

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 section 55 of this act who is denied a claim or feels the compensation is insufficient; and

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(10) Other policies necessary for administering this chapter.

**NEW SECTION. Sec. 58.** A new section is added to chapter 77.36 RCW to read as follows:

(1) Except as otherwise provided in this section and as limited by section 55 of this act and RCW 77.36.070 and 77.36.080, 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, except that, subject to appropriation to pay compensation for damage to commercial livestock, the value of killed or injured commercial livestock may be no more than two hundred dollars per sheep, one thousand five hundred dollars per head of cattle, and one thousand five hundred dollars per horse; 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 commercial livestock filing a claim under section 55 of this act only if the outcome of an appeal filed by the claimant under section 55 of this act 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 commercial livestock, belongs to the claimant.

**Sec. 59.** RCW 77.36.070 and 1996 c 54 s 8 are each amended to read as follows:

The department may pay no more than one hundred twenty thousand dollars per fiscal year from the state wildlife ~~((fund))~~ account created in RCW 77.12.170 for claims ~~((under RCW 77.36.040 and for assessment costs and compromise of claims: Such money shall be used to pay animal damage claims only if the claim meets the conditions of RCW 77.36.040 and the damage occurred in a place where the opportunity to hunt was not restricted or prohibited by a county, municipality, or other public entity during the season prior to the occurrence of the damage))~~ and assessment costs for damage to commercial crops caused by wild deer or elk submitted under section 55 of this act.

**Sec. 60.** RCW 77.36.080 and 1996 c 54 s 9 are each amended to read as follows:

(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 ((under RCW 77.36.040 and for assessment costs and compromise of claims unless the legislature declares an emergency. Such money shall be used to pay animal damage claims only if the claim meets the conditions of RCW 77.36.040 and the damage occurred in a place where the opportunity to hunt was restricted or prohibited by a county, municipality, or other public entity during the season prior to the occurrence of the damage)) and assessment costs for damage to commercial crops caused by wild deer or elk submitted under section 55 of this act.~~

(2)(a) The legislature may declare an emergency ~~((defined for the purposes of this section as any happening arising from))~~ if weather, fire, or other natural ~~((conditions, or fire that causes unusually great))~~ events result in deer or elk causing excessive damage to ~~((commercially raised agricultural or horticultural))~~ commercial crops ~~((by deer or elk)). ((fn))~~

(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 77.36.040 and for assessment and compromise of claims)) section 55 of this act.

Such money shall be used to pay ~~((animal damage))~~ wildlife interaction claims only if the claim meets the conditions of ~~((RCW 77.36.040))~~ section 55 of this act and the department has expended all funds authorized under RCW 77.36.070 or subsection (1) of this section.

**Sec. 61.** RCW 77.36.030 and 1996 c 54 s 4 are each amended to read as follows:

(1) Subject to ~~((the following))~~ 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 ~~((wild animals or wild birds that are damaging crops, domestic animals, or fowl:~~

~~—(a) Threatened or endangered species shall not be hunted, trapped, or killed;~~

~~—(b) Except in an emergency situation, deer, elk, and protected wildlife shall not be killed without a permit issued and conditioned by the director or the director's designee. In an emergency, the department may give verbal permission followed by written permission to trap or kill any deer, elk, or protected wildlife that is damaging crops, domestic animals, or fowl; and~~

~~—(c) On privately owned cattle ranching lands, the land owner or lessee may declare an emergency only when the department has not responded within forty-eight hours after having been contacted by the land owner or lessee regarding damage caused by wild animals or wild birds. In such an emergency, the owner or lessee may trap or kill any deer, elk, or other protected wildlife that is causing the damage but deer and elk may only be killed if such lands were open to public hunting during the previous hunting season, or the closure to public hunting was coordinated with the department to protect property and livestock).~~

(2) ~~((Except for coyotes and Columbian ground squirrels,))~~ 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 ((remain the property of the state, and the person trapping or killing the wildlife shall notify the department immediately. The department shall dispose of wildlife so taken within three days of receiving such a notification and in a manner determined by the director to be in the best interest of the state)).

(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.

**NEW SECTION. Sec. 62.** A new section is added to chapter 77.36 RCW to read as follows:

This chapter represents the exclusive remedy against the state for damage caused by wildlife interactions.

**Sec. 63.** RCW 77.12.240 and 1989 c 197 s 1 are each amended to read as follows:

(1) The ~~((director))~~ 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 ~~((director or other employees of 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 state wildlife ~~((fund))~~ account created in RCW 77.12.170.

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NEW SECTION. Sec. 64. The fish and wildlife commission shall formally review the rules and policies adopted under sections 53 through 66 of this act. If, in the process of reviewing the rules, the fish and wildlife commission identifies recommended statutory changes related to the subject of sections 53 through 66 of this act and to the ability of the fish and wildlife commission to fulfill the intent of sections 53 through 66 of this act, those recommendations must be forwarded to the appropriate policy committees of the legislature during the regularly scheduled 2014 legislative session.

NEW SECTION. Sec. 65. The following acts or parts of acts are each repealed:

- (1) RCW 77.36.005 (Findings) and 1996 c 54 s 1;
- (2) RCW 77.36.020 (Game damage control--Special hunt/remedial action) and 2003 c 385 s 1 & 1996 c 54 s 3;
- (3) RCW 77.36.040 (Payment of claims for damages--Procedure--Limitations) and 1996 c 54 s 5;
- (4) RCW 77.36.050 (Claimant refusal--Excessive claims) and 1996 c 54 s 6;
- (5) RCW 77.36.060 (Claim refused--Posted property) and 1996 c 54 s 7; and
- (6) RCW 77.12.260 (Agreements to prevent damage to private property) and 1987 c 506 s 34, 1980 c 78 s 43, & 1955 c 36 s 77.12.260.

NEW SECTION. Sec. 66. The following sections are each decodified:

RCW 77.36.900; and  
RCW 77.36.901.

NEW SECTION. Sec. 67. Sections 53 through 66 of this act apply prospectively only and not retroactively. Sections 53 through 66 of this act apply only to claims that arise on or after July 1, 2010. Claims under chapter 77.36 RCW that arise prior to July 1, 2010, must be adjudicated under chapter 77.36 RCW as it existed prior to July 1, 2010.

NEW SECTION. Sec. 68. The fish and wildlife commission shall complete all initial rule-making activities that are required in order to allow sections 53 through 66 of this act to take effect on July 1, 2010.

NEW SECTION. Sec. 69. Sections 53 through 66 of this act take effect July 1, 2010.

NEW SECTION. Sec. 70. Section 64 of this act expires July 30, 2014.

Sec. 71. RCW 77.04.030 and 2001 c 155 s 1 are each amended to read as follows:

(1) The fish and wildlife commission consists of ~~((nine))~~ seven registered voters of the state. ~~((In January of each odd-numbered year.))~~

(2) The governor shall appoint commissioners, who must be registered voters, 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)).~~ The governor shall appoint two commissioners each January, except every fourth January following January 2010 the governor shall appoint one commissioner. Commissioners serve for a term of four years.

(3) 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))~~

(4) The governor shall appoint commissioners representing the various geographic areas of the state. Specifically, one member must reside within the boundaries of each of the six administrative regions recognized by the department on the effective date of this section. One member shall be appointed at-large. No two members may be residents of the same county.

(5) The legal office of the commission is at the administrative office of the department in Olympia.

Sec. 72. RCW 77.04.060 and 1993 sp.s. c 2 s 63 are each amended to read as follows:

(1) 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))~~ three members. ~~((Five))~~ Four members constitute a quorum for the transaction of business.

(2) The commission ~~((at a meeting in each odd-numbered year))~~ shall elect one of its members as ~~((chairman))~~ chair and another member as ~~((vice chairman))~~ vice-chair, each of whom shall serve for a term of two years or until a successor is elected and qualified. Beginning January 1, 2014, no member may serve as chair unless that member has served on the commission for two or more years.

(3) 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.

NEW SECTION. Sec. 73. (1) In order to effectuate sections 71 and 72 of this act, the position of each sitting fish and wildlife commission member is considered vacated on August 1, 2009.

(2) The governor shall then appoint seven registered voters to the fish and wildlife commission, with the advice and consent of the senate, on August 1, 2009. The governor shall appoint two members for a term ending January 1, 2011, two members for a term ending January 1, 2012, two members for a term ending January 1, 2013, and one member for a term ending January 1, 2014.

(3) Nothing in this section prohibits the governor from appointing a sitting commissioner whose position is considered vacated under subsection (1) of this section as a commissioner under subsection (2) of this section.

Sec. 74. RCW 43.17.020 and 2007 c 341 s 47 are each amended to read as follows:

There shall be a chief executive officer of each department to be known as: (1) The secretary of social and health services, (2) the director of ecology, (3) the director of labor and industries, (4) the director of agriculture, (5) the director of fish and wildlife, (6) the secretary of transportation, (7) the director of licensing, (8) the director of general administration, (9) the director of community, trade, and economic development, (10) the director of veterans affairs, (11) the director of revenue, (12) the director of retirement systems, (13) the secretary of corrections, (14) the secretary of health, (15) the director of financial institutions, (16) the director of the department of archaeology and historic preservation, (17) the director of early learning, and (18) the executive director of the Puget Sound partnership.

Such officers ~~((, except the director of fish and wildlife,))~~ shall be appointed by the governor, with the consent of the senate, and hold office at the pleasure of the governor. The director of fish and wildlife shall be appointed by the ~~((fish and wildlife commission as prescribed by RCW 77.04.055))~~ governor according to the procedure set forth in RCW 77.04.080.

Sec. 75. RCW 77.04.080 and 2000 c 107 s 205 are each amended to read as follows:

(1) Persons eligible for appointment as director shall have practical knowledge of the habits and distribution of fish and wildlife.

(2) Whenever the position of director is vacated, the governor must appoint a new director from a list of three candidates recommended by the commission. The appointment must be made with the consent of the senate. The director serves at the pleasure of the governor.

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(3) 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.

(4) 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.

(5) The director shall receive the salary fixed by the governor under RCW 43.03.040.

(6) The director is the ex officio secretary of the commission and shall attend its meetings and keep a record of its business.

**Sec. 76.** RCW 77.04.055 and 2000 c 107 s 204 are each amended to read as follows:

(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)), which shall serve at the pleasure of the commission.~~

**Sec. 77.** RCW 77.04.013 and 1995 1st sp.s. c 2 s 1 are each amended to read as follows:

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 to make recommendations regarding appointment of 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.

**NEW SECTION. Sec. 78.** A new section is added to chapter 77.04 RCW to read as follows:

The commission must provide an opportunity for the public to provide oral and written comments at any regular or special meeting of the commission held pursuant to RCW 77.04.060. Additionally, at any open public meeting convened pursuant to chapter 42.30 RCW or any gathering open to the public for purposes of providing information to the public or accepting public input, the commission, department, or both must provide the public an opportunity to: Provide written comments; and provide oral comments to the commission, department, or both, while addressing all in attendance.

**NEW SECTION. Sec. 79.** Sections 71 and 72 of this act take effect August 1, 2009.

**Sec. 80.** RCW 77.32.050 and 2003 c 389 s 1 are each amended to read as follows:

(1) All recreational licenses, permits, tags, and stamps required by this title and raffle tickets authorized under chapter 77.12 RCW shall be issued under the authority of the commission. The commission shall adopt rules for the issuance of recreational licenses, permits, tags, stamps, and raffle tickets, and for the collection, payment, and handling of license fees, terms and conditions to govern dealers, and dealers' fees. A transaction fee on 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. Fees retained by dealers shall be uniform throughout the state. The department shall authorize dealers to collect and retain dealer fees of at least two dollars for purchase of a standard hunting or fishing recreational 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.

(2) For the 2009-2011 biennium, the department may authorize an additional transaction fee on recreational documents of no greater than ten percent of the cost of a recreational document issued under this section, including a recreational license, permit, tag, stamp, or raffle ticket. The transaction fees shall be deposited into the state wildlife account as created in RCW 77.12.170.

**NEW SECTION. Sec. 81.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

On page 1, line 2 of the title, after "wildlife;" strike the remainder of the title and insert "amending RCW 77.15.050, 77.15.700, 77.15.310, 77.15.320, 77.15.610, 77.32.470, 77.65.010, 77.65.370, 77.65.440, 77.15.510, 77.65.480, 77.08.010, 77.15.370, 77.15.425, 77.15.568, 77.15.620, 77.12.870, 77.12.879, 77.60.150, 77.85.230, 77.85.050, 77.120.030, 77.120.110, 77.120.120, 77.95.200, 77.95.310, 77.12.184, 77.12.190, 77.12.210, 77.12.230, 77.12.323, 77.12.380, 77.12.390, 77.15.100, 77.32.430, 77.32.530, 77.32.560, 77.44.050, 77.12.820, 77.36.010, 77.36.070, 77.36.080, 77.36.030, 77.12.240, 77.04.030, 77.04.060, 43.17.020, 77.04.080, 77.04.055, 77.04.013, and 77.32.050; reenacting and amending RCW 77.12.170 and 77.12.690; adding new sections to chapter 77.15 RCW; adding new sections to chapter 77.36 RCW; adding a new section to chapter 77.32 RCW; adding a new section to chapter 77.04 RCW; adding a new chapter to Title 77 RCW; creating new sections; decodifying RCW 77.36.900 and 77.36.901; repealing RCW 77.12.065, 77.36.005, 77.36.020, 77.36.040, 77.36.050, 77.36.060, and 77.12.260; prescribing penalties; providing effective dates; and providing an expiration date."

The President declared the question before the Senate to be the motion by Senator Jacobsen to not adopt the committee

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striking amendment by the Committee on Natural Resources, Ocean & Recreation to Substitute House Bill No. 1778.

The motion by Senator Jacobsen carried and the committee striking amendment was not adopted by voice vote.

#### MOTION

Senator Jacobsen moved that the following striking amendment by Senator Jacobsen and others be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 77.15.050 and 1998 c 190 s 6 are each amended to read as follows:

(1) Unless the context clearly requires otherwise, as used in this chapter, "conviction" means:

(a) A final conviction in a state or municipal court;

(b) A failure to appear at a hearing to contest an infraction or criminal citation; or

(c) An unvacated forfeiture of bail paid as a final disposition for an offense ~~((or an unvacated forfeiture of bail or collateral deposited to secure the defendant's appearance in court)).~~

(2) A plea of guilty, or a finding of guilt for a violation of this title or rule of the commission or director constitutes a conviction regardless of whether the imposition of sentence is deferred or the penalty is suspended.

**Sec. 2.** RCW 77.15.700 and 2007 c 163 s 2 are each amended to read as follows:

(1) The department shall impose revocation and suspension of privileges in the following circumstances:

~~((+))~~ (a) Upon conviction, if directed by statute for an offense~~(s)~~;

~~((2))~~ (b) Upon conviction of a violation not involving commercial fishing, if the department finds that actions of the defendant demonstrated a willful or wanton disregard for conservation of fish or wildlife. ~~((Such))~~ Suspension of privileges under this subsection may be permanent. ~~((This subsection (2) does not apply to violations involving commercial fishing;~~

~~((3))~~ (c) If a person is convicted twice within ten years for a violation involving unlawful hunting, killing, or possessing big game~~((, the department shall order))~~. Revocation and suspension ~~((of))~~ under this subsection must be ordered for all hunting privileges for two years. ~~((RCW 77.12.722 or 77.16.050 as it existed before June 11, 1998, may comprise one of the convictions constituting the basis for revocation and suspension under this subsection;~~

~~((4(a)))~~ (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~~(s)~~; (ii) has an uncontested notice of infraction~~(s)~~; (iii) fails to appear at a hearing to contest ~~((an))~~ a fish and wildlife infraction~~(s)~~; or (iv) is found to have committed an infraction ~~((three times in ten years involving any violation of recreational hunting or fishing laws or rules, the department shall order a))~~. Revocation and suspension under this subsection must be ordered of all recreational hunting and fishing privileges for two years.

~~((b))~~ (2)(a) A violation punishable as an infraction counts towards the revocation and suspension of recreational hunting and fishing privileges ~~((only where))~~ 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 ~~((1) or (2))~~; WAC 220-56-116; WAC 220-56-315(11); or WAC 220-56-355 (1) through (4).

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

~~((5))~~ (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, except for a violation of RCW 77.15.400 (1) through (3), the department may revoke all hunting licenses and tags and may order a suspension of ~~((one))~~ either or both the deferred

education licensee's and the nondeferred accompanying person's hunting privileges for one year.

**Sec. 3.** RCW 77.15.310 and 2003 c 39 s 38 are each amended to read as follows:

(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 ~~((77.55.040 or 77.55.320))~~ 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.

**Sec. 4.** RCW 77.15.320 and 2000 c 107 s 241 are each amended to read as follows:

(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 ~~((77.55.060))~~ 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.

**Sec. 5.** RCW 77.15.610 and 1998 c 190 s 33 are each amended to read as follows:

(1) A person who holds a fur buyer's license or taxidermy license is guilty of unlawful use of a commercial wildlife license if the person:

(a) Fails to have the license in possession while engaged in fur buying or practicing taxidermy for commercial purposes; or

(b) Violates any rule of the department regarding reporting requirements or the use, possession, display, or presentation of the taxidermy or fur buyer's license.

(2) Unlawful use of a commercial wildlife license is a misdemeanor.

**Sec. 6.** RCW 77.32.470 and 2008 c 35 s 1 are each amended to read as follows:

(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 thirty-six dollars for residents, seventy-two 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 eighteen dollars for residents, thirty-six 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 dollars for residents, forty dollars for nonresidents, and five dollars for resident seniors.



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(3)(a) A temporary combination fishing license is valid for one to five 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 - Seven dollars for residents and fourteen dollars for nonresidents;
- (ii) Two days - Ten dollars for residents and twenty dollars for nonresidents;
- (iii) Three days - Thirteen dollars for residents and twenty-six dollars for nonresidents;
- (iv) Four days - Fifteen dollars for residents and thirty dollars for nonresidents; and
- (v) Five days - Seventeen dollars for residents and thirty-four dollars for nonresidents.

(b) The fee for a charter stamp is seven 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) A transaction fee to support the automated licensing system will be taken from the amounts set forth in this subsection for temporary licenses.

(d) 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.

(e) 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 provide a valid military identification card at the time of purchase of the temporary license to qualify for the resident rate.

(f) 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 state wildlife account created in RCW 77.12.170 and used for the operation and maintenance of state-owned fish hatcheries. The fee for a two-pole stamp is twenty dollars for residents and nonresidents, and five dollars for resident seniors.

**Sec. 7.** RCW 77.65.010 and 2005 c 20 s 1 are each amended to read as follows:

(1) Except as otherwise provided by this title, a person ~~((may not))~~ must have a license or permit issued by the director in order to engage in any of the following activities ((without a license or permit issued by the director)):

- (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 processing or wholesaling food fish or shellfish; or
- (e) Act as a food fish guide ~~((for salmon))~~ for personal use in freshwater rivers and streams, ~~((other than that part of the~~

Columbia river below the bridge at Longview)) 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 or permits 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 or permit 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 or permit requirements established by this subsection applies only if the aquatic products are identified in conformance with those rules.

**Sec. 8.** RCW 77.65.370 and 1998 c 190 s 98 are each amended to read as follows:

(1) A person shall not offer or perform the services of a ~~((professional salmon))~~ food fish guide without a food fish guide license in the taking of ~~((salmon))~~ food fish for personal use in freshwater rivers and streams, ~~((other than in that part of the Columbia river below the bridge at Longview, without a professional salmon guide license))~~ 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) Only an individual at least sixteen years of age may hold a ~~((professional salmon))~~ food fish guide license. No individual may hold more than one ~~((professional salmon))~~ food fish guide license.

**Sec. 9.** RCW 77.65.440 and 2000 c 107 s 55 are each amended to read as follows:

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		Governing Section
	Resident	Nonresident	
(1) Alternate Operator	\$ 35	\$ 35	RCW 77.65.130
(2) Geoduck Diver	\$185	\$295	RCW 77.65.410
(3) <del>((Salmon))</del> <u>Food</u> Fish Guide	\$130	\$630	RCW 77.65.370
	(plus \$20)	(plus \$100)	

**Sec. 10.** RCW 77.15.510 and 2001 c 253 s 43 are each amended to read as follows:

(1) A person is guilty of ~~((commercial))~~ acting as a game fish ((guiding)) 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 ~~((professional salmon))~~ food fish guide and does not hold a ~~((professional salmon))~~ food fish guide license; or
- (c) The person acts as a game fish guide and does not hold a game fish guide license.

(2) ~~((Commercial))~~ Acting without a game fish ((guiding or chartering without a)) guide license, food fish guide license, or charter license is a gross misdemeanor.

**Sec. 11.** RCW 77.65.480 and 1991 sp.s. c 7 s 4 are each amended to read as follows:

(1) A taxidermy license allows the holder to practice taxidermy for ~~((profit))~~ commercial purposes, as that term is defined in RCW 77.15.110. The fee for this license is one hundred eighty dollars.

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(2) A fur dealer's license allows the holder to purchase, receive, or resell raw furs for ~~((profit))~~ commercial purposes, as that term is defined in RCW 77.15.110. The fee for this license is one hundred eighty dollars.

(3) A ~~((fishing))~~ game fish guide license allows the holder to offer or perform the services of a ~~((professional))~~ game fish guide in the taking of game fish. The fee for this license is one hundred eighty dollars for a resident and six hundred dollars for a nonresident.

(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.

(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.

(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.

(7)(a) An anadromous game fish buyer's license allows the holder to purchase or sell steelhead trout and other anadromous game fish harvested by Indian ~~((fishermen))~~ fishers lawfully exercising fishing rights reserved by federal statute, treaty, or executive order, under conditions prescribed by rule of the director. The fee for this license is one hundred eighty dollars.

(b) An anadromous game fish buyer's license is not required for those businesses that buy steelhead trout and other anadromous game fish from Washington licensed game fish dealers and sell solely at retail.

**Sec. 12.** RCW 77.08.010 and 2008 c 277 s 2 are each amended to read as follows:

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 hand-held line operated without rod or reel.

(2) "Aquatic invasive species" means any invasive, prohibited, regulated, unregulated, or unlisted aquatic animal or plant species as defined under subsections ~~((48) through (53))~~ (3), (28), (40), (44), (58), and (59) of this section, aquatic noxious weeds as defined under RCW 17.26.020(5)(c), and aquatic nuisance species as defined under RCW 77.60.130(1).

(3) "Aquatic plant species" means an emergent, submersed, partially submersed, free-floating, or floating-leaving plant species that grows in or near a body of water or wetland.

(4) "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.

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

(6) "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.

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

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

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

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

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

(12) "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.

~~((12))~~ (13) "Department" means the department of fish and wildlife.

~~((13))~~ (14) "Director" means the director of fish and wildlife.

~~((14))~~ (15) "Endangered species" means wildlife designated by the commission as seriously threatened with extinction.

~~((15))~~ (16) "Ex officio fish and wildlife officer" means a commissioned officer of a municipal, county, state, or federal agency having as its primary function the enforcement of criminal laws in general, while the officer is in the appropriate jurisdiction. The term "ex officio fish and wildlife officer" includes special agents of the national marine fisheries service, state parks commissioned officers, United States fish and wildlife special agents, department of natural resources enforcement officers, and United States forest service officers, while the agents and officers are within their respective jurisdictions.

~~((16))~~ (17) "Fish" includes all species classified as game fish or food fish by statute or rule, as well as all fin fish 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.

~~((17))~~ (18) "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.

~~((18))~~ (19) "Fish broker" means a person whose business it is to bring a seller of fish and shellfish and a purchaser of those fish and shellfish together.

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

~~((19))~~ (21) "Freshwater" means all waters not defined as saltwater including, but not limited to, rivers upstream of the river mouth, lakes, ponds, and reservoirs.

~~((20))~~ (22) "Fur-bearing animals" means game animals that shall not be trapped except as authorized by the commission.

~~((21))~~ (23) "Game animals" means wild animals that shall not be hunted except as authorized by the commission.

~~((22))~~ (24) "Game birds" means wild birds that shall not be hunted except as authorized by the commission.

~~((23))~~ (25) "Game farm" means property on which wildlife is held or raised for commercial purposes, trade, or gift. The term "game farm" does not include publicly owned facilities.

~~((24))~~ (26) "Game reserve" means a closed area where hunting for all wild animals and wild birds is prohibited.

~~((25))~~ (27) "Illegal items" means those items unlawful to be possessed.

(28) "Invasive species" means a plant species or a nonnative animal species that either:

(a) Causes or may cause displacement of, or otherwise threatens, native species in their natural communities;

(b) Threatens or may threaten natural resources or their use in the state;

(c) Causes or may cause economic damage to commercial or recreational activities that are dependent upon state waters; or

(d) Threatens or harms human health.

~~((26))~~ (29) "License year" means the period of time for which a recreational license is valid. The license year begins April 1st, and ends March 31st.

~~((27))~~ (30) "Limited-entry license" means a license subject to a license limitation program established in chapter 77.70 RCW.

~~((28))~~ (31) "Money" means all currency, script, personal checks, money orders, or other negotiable instruments.

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

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~~((29))~~ (33) "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.

~~((30))~~ (34) "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, harvest, or possess by rule of the commission. "Open season" includes the first and last days of the established time.

~~((31))~~ (35) "Owner" means the person in whom is vested the ownership dominion, or title of the property.

(36) "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.

~~((32))~~ (37) "Personal use" means for the private use of the individual taking the fish or shellfish and not for sale or barter.

~~((33))~~ (38) "Personal property" or "property" includes both corporeal and incorporeal personal property and includes, among other property, contraband and money.

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

~~((34))~~ (40) "Prohibited aquatic animal species" means an invasive species of the animal kingdom that has been classified as a prohibited aquatic animal species by the commission.

~~((35))~~ (41) "Protected wildlife" means wildlife designated by the commission that shall not be hunted or fished.

~~((36))~~ (42) "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.

~~((37))~~ (43) "Recreational and commercial watercraft" includes the boat, as well as equipment used to transport the boat, and any auxiliary equipment such as attached or detached outboard motors.

~~((38))~~ (44) "Regulated aquatic animal species" means a potentially invasive species of the animal kingdom that has been classified as a regulated aquatic animal species by the commission.

~~((39))~~ (45) "Resident" means:

(a) A 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, and who is not licensed to hunt or fish as a resident in another state; and

(b) A person age eighteen or younger who does not qualify as a resident under (a) of this subsection, but who has a parent that qualifies as a resident under (a) of this subsection.

~~((40))~~ (46) "Retail-eligible species" means commercially harvested salmon, crab, and sturgeon.

~~((41))~~ (47) "Saltwater" means those marine waters seaward of river mouths.

~~((42))~~ (48) "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.

~~((43))~~ (49) "Senior" means a person seventy years old or older.

~~((44))~~ (50) "Shellfish" means those species of marine and freshwater invertebrates that have been classified and that shall not be taken except as authorized by rule of the commission. The term "shellfish" includes all stages of development and the bodily parts of shellfish species.

~~((45))~~ (51) "State waters" means all marine waters and fresh waters within ordinary high water lines and within the territorial boundaries of the state.

~~((46))~~ (52) "To fish," "to harvest," and "to take," and their derivatives means an effort to kill, injure, harass, or catch a fish or shellfish.

~~((47))~~ (53) "To hunt" and its derivatives means an effort to kill, injure, capture, or harass a wild animal or wild bird.

~~((48))~~ (54) "To process" and its derivatives mean preparing or preserving fish, wildlife, or shellfish.

~~((49))~~ (55) "To trap" and its derivatives means a method of hunting using devices to capture wild animals or wild birds.

~~((50))~~ (56) "Trafficking" means offering, attempting to engage, or engaging in sale, barter, or purchase of fish, shellfish, wildlife, or deleterious exotic wildlife.

~~((51))~~ (57) "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.

(58) "Unlisted aquatic animal species" means a nonnative animal species that has not been classified as a prohibited aquatic animal species, a regulated aquatic animal species, or an unregulated aquatic animal species by the commission.

~~((52))~~ (59) "Unregulated aquatic animal species" means a nonnative animal species that has been classified as an unregulated aquatic animal species by the commission.

~~((53))~~ (60) "Wholesale fish dealer" means a person who, acting for commercial purposes, takes possession or ownership of fish or shellfish and sells, barter, or exchanges or attempts to sell, barter, or exchange fish or shellfish that have been landed into the state of Washington or entered the state of Washington in interstate or foreign commerce.

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

~~((54))~~ (62) "Wild birds" means those species of the class Aves whose members exist in Washington in a wild state.

~~((55))~~ (63) "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.

~~((56))~~ (64) "Youth" means a person fifteen years old for fishing and under sixteen years old for hunting.

Sec. 13. RCW 77.12.170 and 2005 c 418 s 3, 2005 c 225 s 4, 2005 c 224 s 4, and 2005 c 42 s 4 are each reenacted and amended to read as follows:

(1) There is established in the state treasury the state wildlife account which 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, and the sale of licenses, permits, tags, and stamps required by chapter 77.32 RCW and RCW 77.65.490, except annual resident adult saltwater and all annual razor clam and shellfish licenses, which shall be deposited into the state general fund;

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

(e) Fees for personalized vehicle, Wild on Washington, and Endangered Wildlife license plates and Washington's Wildlife license plate collection as provided in chapter 46.16 RCW;

(f) Articles or wildlife sold by the director under this title;

(g) Compensation for damage to department property or wildlife losses or contributions, gifts, or grants received under RCW 77.12.320. 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 pursuant to RCW 77.15.425;

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

(i) ~~((The sale of personal property seized by the department for fish, shellfish, or wildlife violations;~~

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

~~((~~(h)~~))~~ (j) The sale of watchable wildlife decals under RCW 77.32.560.

(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 state wildlife account.

**NEW SECTION. Sec. 14.** A new section is added to chapter 77.15 RCW to read as follows:

(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) Permits covered under subsection (1) of this section include, but are not limited to, master hunter permits, 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. Permits excluded from subsection (1) of this section include fish and wildlife lands vehicle use permits, commercial use or activity permits, noncommercial use or activity permits, parking permits, experimental fishery permits, trial commercial fishery permits, and scientific collection permits.

(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.

**NEW SECTION. Sec. 15.** A new section is added to chapter 77.32 RCW to read as follows:

(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 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 program.

**NEW SECTION. Sec. 16.** A new section is added to chapter 77.15 RCW to read as follows:

(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.

**Sec. 17.** RCW 77.15.370 and 2005 c 406 s 3 are each amended to read as follows:

(1) A person is guilty of unlawful recreational fishing in the first degree if:

(a) The person takes, possesses, or retains 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, possessed, or retained 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 rule of the commission or director; ~~((or))~~

(d) The person fishes for or possesses a fish listed as threatened or endangered in 50 C.F.R. Sec. 17.11 (2002), unless fishing for or possession of such fish is specifically allowed under federal or state law; or

(e) The person possesses a sturgeon measuring in excess of the maximum size limit as established by rules adopted by the department.

(2) Unlawful recreational fishing in the first degree is a gross misdemeanor.

**Sec. 18.** RCW 77.15.425 and 2006 c 148 s 2 are each amended to read as follows:

The fish and wildlife enforcement reward account is created in the custody of the state treasurer. ~~((All receipts from criminal wildlife penalty assessments under RCW 77.15.420 and~~

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~~77.15.400 must be deposited into the account.)) 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 RCW 77.15.400 and 77.15.420; 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 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.~~

**Sec. 19.** RCW 77.15.568 and 2007 c 337 s 4 are each amended to read as follows:

(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 or holds fish or shellfish for another in exchange for valuable consideration, ships fish or shellfish in exchange for valuable consideration, or brokers fish or shellfish in exchange for valuable consideration;

(b) The fish or shellfish were required to be entered on a Washington fish receiving ticket or a Washington aquatic farm production annual report; 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 the location where the fish or shellfish are being sold, at the location where the fish or shellfish are being stored or held, or at the principal place of business of the shipper or broker.

(2) This section ~~((does not apply))~~ applies to a wholesale fish dealer~~(s))~~ acting in the capacity of a broker. However, this section does not apply to a wholesale fish dealer acting in the capacity of a wholesale fish dealer, to a fisher selling under a direct retail sale endorsement, or to a registered aquatic farmer.

(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 must include the following:

(a) The name, address, and phone number of the wholesale fish dealer, fisher selling under a direct retail sale endorsement, or aquatic farmer or shellstock shipper from whom the fish or shellfish were purchased or received;

(b) The Washington fish receiving ticket number documenting original receipt or aquatic farm production quarterly report documenting production, if available;

(c) The date of purchase or receipt; and

(d) The amount and species of fish or shellfish purchased or received.

(5) Records maintained by persons that store, hold, or ship fish or shellfish for others must state the following:

(a) The name, address, and phone number of the person and business from whom the fish or shellfish were received;

(b) The date of receipt; and

(c) The amount and species of fish or shellfish received.

(6) A secondary commercial fish receiver's failure to account for commercial harvest is a misdemeanor.

**Sec. 20.** RCW 77.15.620 and 2002 c 301 s 7 are each amended to read as follows:

(1) A person is guilty of engaging in fish dealing activity without a license in the second degree if the person:

(a) Engages in the commercial processing of fish or shellfish, including custom canning or processing of personal use fish or shellfish and does not hold a wholesale dealer's license required by RCW 77.65.280(1) or 77.65.480 for anadromous game fish, or a direct retail endorsement under RCW 77.65.510;

(b) Engages in the wholesale selling, buying, or brokering of food fish or shellfish and does not hold a wholesale dealer's or buying license required by RCW 77.65.280(2) or 77.65.480 for anadromous game fish;

(c) Is a fisher who lands and sells his or her catch or harvest in the state to anyone other than a licensed wholesale dealer within or outside the state and does not hold a direct retail endorsement required by RCW 77.65.510; or

(d) Engages in the commercial manufacture or preparation of fertilizer, oil, meal, caviar, fish bait, or other byproducts from food fish or shellfish and does not hold a wholesale dealer's license required by RCW 77.65.280(4) or 77.65.480 for anadromous game fish.

(2) Engaging in fish dealing activity without a license in the second degree is a gross misdemeanor.

(3) 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: (a) Fish or shellfish worth two hundred fifty dollars or more; (b) a failure to document such fish or shellfish with a fish receiving ticket or other documentation required by statute or rule of the department; or (c) violates any other rule of the department regarding wholesale fish buying and dealing. Engaging in fish dealing activity without a license in the first degree is a class C felony.

**Sec. 21.** RCW 77.12.870 and 2002 c 20 s 3 are each amended to read as follows:

(1) The department, in consultation with the Northwest straits commission, the department of natural resources, and other interested parties, must create and maintain a database of known derelict fishing gear, including the type of gear and its location.

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

~~((3) The department, in consultation with fishing industry groups and tribal comanagers, must evaluate methods to reduce future losses of fishing gear and report the results of this evaluation to the appropriate legislative committees by January 1, 2003.))~~

**Sec. 22.** RCW 77.12.879 and 2007 c 350 s 3 are each amended to read as follows:

(1) The aquatic invasive species prevention account is created in the state treasury. Moneys directed to the account from RCW 88.02.050 must be deposited in the account. Expenditures from the account may only be used as provided in this section. Moneys in the account may be spent only after appropriation.

(2) Funds in the aquatic invasive species prevention account may be appropriated to the department to develop an aquatic invasive species prevention program for recreational and commercial watercraft. Funds must be expended as follows:

(a) To inspect recreational and commercial watercraft;

(b) To educate general law enforcement officers on how to enforce state laws relating to preventing the spread of aquatic invasive species;

(c) To evaluate and survey the risk posed by recreational and commercial watercraft in spreading aquatic invasive species into Washington state waters;

(d) To evaluate the risk posed by float planes in spreading aquatic invasive species into Washington state waters; and

(e) To implement an aquatic invasive species early detection and rapid response plan. The plan must address the treatment and immediate response to the introduction to Washington waters of aquatic invasive species. Agency and public review of the plan must be conducted under chapter 43.21C RCW, the

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state environmental policy act. If the implementation measures or actions would have a probable significant adverse environmental impact, a detailed statement under chapter 43.21C RCW must be prepared on the plan.

(3) Funds in the aquatic invasive species enforcement account created in RCW 43.43.400 may be appropriated to the department and Washington state patrol to develop an aquatic invasive species enforcement program for recreational and commercial watercraft. The department shall provide training to Washington state patrol employees working at port of entry weigh stations, and other local law enforcement employees, on how to inspect recreational and commercial watercraft for the presence of aquatic invasive species. A person who enters Washington by road transporting any commercial or recreational watercraft that has been used in any designated aquatic invasive species state or foreign country as defined by rule of the department must have in his or her possession valid documentation that the watercraft has been inspected and found free of aquatic invasive species. The department is authorized to require persons transporting recreational and commercial watercraft to stop at check stations. Check stations must be plainly marked by signs, operated by at least one uniformed fish and wildlife officer, and operated in a safe manner. Any person stopped at a check station who possesses a recreational or commercial watercraft that has been used in any designated aquatic invasive species state or foreign country as defined by rule of the department, or that is contaminated with aquatic invasive species, must bear the expense for any necessary impoundment, transportation, cleaning, and decontamination of the watercraft. Any person stopped at a check station who possesses a recreational or commercial watercraft that has been used in any designated aquatic invasive species state or foreign country as defined by rule of the department, or that is contaminated with aquatic invasive species, is exempt from the criminal penalties found in RCW 77.15.253 and 77.15.290, and forfeiture under RCW 77.15.070, if that person complies with all department directives for the proper decontamination of the watercraft and equipment.

(4) The department shall submit a biennial report to the appropriate legislative committees describing the actions taken to implement this section along with suggestions on how to better fulfill the intent of chapter 464, Laws of 2005. ~~((The first report is due December 1, 2007-))~~

**Sec. 23.** RCW 77.60.150 and 2001 c 273 s 1 are each amended to read as follows:

(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 ~~((4))~~ (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.

~~((The department shall submit a brief progress report on the status of the pilot programs to the appropriate standing committees of the legislature by January 7, 2003-))~~

~~((4))~~ 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 ~~((79.96.090))~~ 79.135.300. Vacation of state oyster reserves by the department ~~((of fish and wildlife))~~ 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 of ~~((fish and wildlife))~~ may not assess charges to recover the costs of consulting with the department of natural resources under this subsection.

~~((5))~~ (4) The Puget Sound pilot program shall not include the culture of geoduck.

**Sec. 24.** RCW 77.85.230 and 2003 c 391 s 5 are each amended to read as follows:

(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 saltwater 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

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lead entity for the geographic area established under this chapter.

**Sec. 25.** RCW 77.85.050 and 2005 c 309 s 6 are each amended to read as follows:

(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 identify 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 WRIs, 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))~~ salmon recovery funding board in accordance with procedures adopted by the board.

**Sec. 26.** RCW 77.120.030 and 2007 c 350 s 10 are each amended to read as follows:

(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 ~~((the ballast water work group, or similar))~~ 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 ((state)), 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.

**Sec. 27.** RCW 77.120.110 and 2007 c 350 s 14 are each amended to read as follows:

(1) The ballast water 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) Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only to carry out the purposes of this chapter or support the goals of this chapter through research and monitoring except:

(a) Expenditures may not be used for the salaries of permanent department employees; and

(b) Penalties deposited into the account may be used ~~((in consultation with the ballast water work group created in section 11 of this act))~~ only to support basic and applied research and carry out education and outreach related to the state's ballast water management.

**Sec. 28.** RCW 77.120.120 and 2007 c 350 s 15 are each amended to read as follows:

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. ~~((Such testing and research shall be reviewed by the ballast water work group, who may make recommendations to the department.))~~ 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.

**Sec. 29.** RCW 77.95.200 and 1998 c 251 s 2 are each amended to read as follows:

(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 ~~((completed by July 1, 1999, and))~~ updated annually ~~((thereafter))~~.

(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.

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(4) The department may purchase remote site incubators and may use agency employees to construct remote site incubators. ~~((The director and the secretary of the department of corrections shall jointly investigate the potential of producing remote site incubators through the prison industries program of the department of corrections, and shall jointly report their finding to the natural resources committees of the house of representatives and the senate by December 1, 1999.))~~

(5) The department shall investigate the use of the remote site incubator technology for the production of warm water fish.

(6) ~~((The department shall evaluate the initial results of the program and report to the legislature by December 1, 2000.))~~ Annual reports on the progress of the program shall be provided to the fish and wildlife commission.

**Sec. 30.** RCW 77.95.310 and 1997 c 414 s 1 are each amended to read as follows:

~~((Beginning September 1, 1998, and each September 1st thereafter.))~~ (1) The department shall ~~((submit))~~ maintain a report ~~((to the appropriate standing committees of the legislature))~~ identifying ~~((the))~~ total salmon and steelhead harvest ~~((of the preceding season))~~. 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;

~~((2))~~ (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

~~((3))~~ (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.

**Sec. 31.** RCW 77.12.184 and 2000 c 252 s 1 are each amended to read as follows:

(1) The department shall deposit all moneys received from the following activities into the state wildlife ~~((fund))~~ account created in RCW 77.12.170:

(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.

**Sec. 32.** RCW 77.12.190 and 1991 sp.s. c 31 s 17 are each amended to read as follows:

Moneys in the state wildlife ~~((fund))~~ 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.

**Sec. 33.** RCW 77.12.210 and 2000 c 107 s 218 are each amended to read as follows:

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 state wildlife ~~((fund))~~ account created in RCW 77.12.170: 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 state wildlife ~~((fund))~~ account created in RCW 77.12.170.

**Sec. 34.** RCW 77.12.230 and 1987 c 506 s 32 are each amended to read as follows:

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 state wildlife ~~((fund))~~ account created in RCW 77.12.170 to the department.

**Sec. 35.** RCW 77.12.323 and 1987 c 506 s 42 are each amended to read as follows:

(1) There is established in the state wildlife ~~((fund))~~ account created in RCW 77.12.170 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 director may advise the state treasurer and the state investment board of a surplus in the special wildlife account above the current needs. The state investment board may invest and reinvest the surplus, as the commission deems appropriate, in an investment authorized by RCW 43.84.150 or in securities issued by the United States government as defined by RCW 43.84.080 (1) and (4). Income received from the investments shall be deposited to the credit of the special wildlife account.

**Sec. 36.** RCW 77.12.380 and 1987 c 506 s 44 are each amended to read as follows:

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 state wildlife ~~((fund))~~ account created in RCW 77.12.170 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.

**Sec. 37.** RCW 77.12.390 and 1987 c 506 s 45 are each amended to read as follows:

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 state wildlife ~~((fund))~~ account created in RCW 77.12.170 in favor of the fund for which the withdrawn lands are held.

**Sec. 38.** RCW 77.12.690 and 1998 c 245 s 158 and 1998 c 191 s 33 are each reenacted and amended to read as follows:

The migratory waterfowl art committee is responsible for the selection of the annual migratory bird stamp design and shall



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provide the design to the department. If the committee does not perform this duty within the time frame necessary to achieve proper and timely distribution of the stamps to license dealers, the director shall initiate the art work selection for that year. The committee shall create collector art prints and related artwork, utilizing the same design as provided to the department. 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 migratory waterfowl art committee.

The total amount brought in from the sale of prints and related artwork shall be deposited in the state wildlife ~~((fund))~~ account created in RCW 77.12.170. The costs of producing and marketing of prints and related artwork, including administrative expenses mutually agreed upon by the committee and the director, 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.

The migratory waterfowl art committee shall have an annual audit of its finances conducted by the state auditor and shall furnish a copy of the audit to the commission.

**Sec. 39.** RCW 77.15.100 and 2000 c 107 s 235 are each amended to read as follows:

(1) Unless otherwise provided in this title, fish, shellfish, or wildlife unlawfully taken or possessed, or involved in a violation shall be forfeited to the state upon conviction. Unless already held by, sold, destroyed, or disposed of by the department, the court shall order such fish or wildlife to be delivered to the department. Where delay will cause loss to the value of the property and a ready wholesale buying market exists, the department may sell property to a wholesale buyer at a fair market value.

(2) When seized property is forfeited to the department, 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 the property to the agency for the use of enforcing this title, or sell such property and deposit the proceeds into the ~~((state wildlife fund))~~ fish and wildlife enforcement reward account established under RCW ~~((77.12.170))~~ 77.15.425. Any sale of other property shall be at public auction or after public advertisement reasonably designed to obtain the highest price. The time, place, and manner of holding the sale shall be determined by the director. The director may contract for the sale to be through the department of general administration as state surplus property, or, except where not justifiable by the value of the property, the director shall publish notice of the sale once a week for at least two consecutive weeks before the sale in at least one newspaper of general circulation in the county in which the sale is to be held.

**Sec. 40.** RCW 77.32.430 and 2005 c 192 s 2 are each amended to read as follows:

(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. There is no charge for an initial catch record card. Each subsequent or duplicate catch record card costs ten 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 three dollars, including any or all fees authorized under RCW 77.32.050, when purchased for a personal use saltwater, combination, or shellfish and seaweed license. The endorsement shall cost no more than one dollar, including any or all fees authorized under RCW 77.32.050, 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 not 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) The department shall include provisions for recording marked and unmarked salmon in catch record cards issued after March 31, 2004.

(5) The funds received from the sale of catch record cards and the Dungeness crab endorsement must be deposited into the state wildlife ~~((fund))~~ account created in RCW 77.12.170. The funds received from the Dungeness crab endorsement may be used only for the sampling, monitoring, and management of catch associated with the Dungeness crab recreational fisheries. Moneys allocated under this section shall supplement and not supplant other federal, state, and local funds used for Dungeness crab recreational fisheries management.

**Sec. 41.** RCW 77.32.530 and 1996 c 101 s 5 are each amended to read as follows:

(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 ~~((fifteen))~~ 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 state wildlife ~~((fund))~~ account created in RCW 77.12.170. The revenues shall be used to improve ~~((the habitat, health, and welfare of the species auctioned or raffled))~~ game management and shall supplement, rather than replace, other funds budgeted for management of ~~((that))~~ 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.

**Sec. 42.** RCW 77.32.560 and 2003 c 317 s 2 are each amended to read as follows:

(1) The department may sell watchable wildlife decals. Proceeds from the sale of the decal must be deposited into the state wildlife ~~((fund))~~ account created in RCW 77.12.170 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

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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. A person who purchases a watchable wildlife decal must be issued one vehicle use permit free of charge.

**Sec. 43.** RCW 77.44.050 and 1999 c 235 s 1 are each amended to read as follows:

The warm water game fish account is hereby created in the state wildlife ~~(fund)~~ account created in RCW 77.12.170. 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 replacement funding for department-operated warm water fish projects existing on December 31, 1994 ~~(except that an amount not to exceed ninety-one thousand dollars may be used for warm water fish culture at the Rod Meseberg warm water fish production facility during the biennium ending June 30, 2001)~~.

**NEW SECTION. Sec. 44.** 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.

**NEW SECTION. Sec. 45.** 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.

**NEW SECTION. Sec. 46.** 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.

**NEW SECTION. Sec. 47.** 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.

**NEW SECTION. Sec. 48.** (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.

**NEW SECTION. Sec. 49.** 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.

**NEW SECTION. Sec. 50.** Sections 44 through 49 of this act constitute a new chapter in Title 77 RCW.

**NEW SECTION. Sec. 51.** RCW 77.12.065 (Wildlife viewing tourism) and 2003 c 183 s 1 are each repealed.

**Sec. 52.** RCW 77.12.820 and 1997 c 422 s 5 are each amended to read as follows:

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. ~~(Not less than eighty percent of expenditures from the account must be used 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.

**NEW SECTION. Sec. 53.** (1) The legislature finds that healthy wildlife populations are a valuable and treasured public resource to the people of the state of Washington. However, the

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legislature also finds that as the human population increases and encroaches on wildlife habitat, interactions between humans and wildlife will become more frequent.

(2) The legislature further finds that interactions between humans and wildlife can have significant financial impacts on the affected landowner. Although the resulting wildlife damage is felt most closely by the landowner, the general public, as beneficiaries and stewards of healthy wildlife populations, should bear some responsibility, as outlined in and limited by this act, for providing a measure of restitution to the impacted landowner, provided that the landowner has exhausted all legal, practicable self-help methods available to prevent wildlife damage from occurring.

(3) The legislature further finds that the commercial agriculture, horticulture, and livestock industries are important components of the state economy that can be negatively impacted by interactions with wildlife. However, the legislature also finds that other landowners, both commercial and residential, may be faced with wildlife interactions that result in property damage. It is the intent of the legislature to craft a solution whereby all property owners have a potential avenue to petition the state for some mitigation of the damages caused by wildlife.

(4) The legislature further finds that it is in the best interests of the state for the department of fish and wildlife to respond quickly to wildlife damage complaints and to work with those affected to prevent and minimize negative interactions while maintaining healthy wildlife populations.

(5) The legislature further finds that negative wildlife interactions can be best reduced by encouraging landowners to contribute, through their land management practices, to healthy wildlife populations and to provide access for related recreation.

**Sec. 54.** RCW 77.36.010 and 1996 c 54 s 2 are each amended to read as follows:

~~((Unless otherwise specified,))~~ ~~The ((following))~~ 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 ((commercially raised)) horticultural ((and/or)) or agricultural product ((and includes)), including the growing or harvested product ((but does not include livestock)). For the purposes of this chapter all parts of horticultural trees shall be considered a commercial crop and shall be eligible for claims.

~~((2)) "Emergency" means an unforeseen circumstance beyond the control of the landowner or tenant that presents a real and immediate threat to crops, domestic animals, or fowl.))~~

(3) "Commercial livestock" means cattle, sheep, and horses held or raised by a person for sale.

(4) "Compensation" means a cash payment, materials, or service.

(5) "Damage" means economic losses caused by wildlife interactions.

(6) "Immediate family member" means spouse, state registered domestic partner, brother, sister, grandparent, parent, child, or grandchild.

(7) "Owner" means a person who has a legal right to commercial crops, commercial 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, commercial livestock, or other property.

**NEW SECTION. Sec. 55.** A new section is added to chapter 77.36 RCW to read as follows:

(1)(a) Except as limited by RCW 77.36.070 and 77.36.080, 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 commercial 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 commercial livestock has been diminished. Payments for claims for damage to commercial livestock are not subject to the limitations of RCW 77.36.070 and 77.36.080, but may not exceed the total amount specifically appropriated therefor.

(b) Owners of commercial crops or commercial livestock are only eligible for a claim under this subsection if:

(i) The owner satisfies the definition of "eligible farmer" in RCW 82.08.855;

(ii) The conditions of section 56 of this act have been satisfied; and

(iii) The damage caused to the commercial crop or commercial livestock satisfies the criteria for damage established by the commission under this subsection.

(c) The commission shall adopt and maintain by rule criteria that clarifies the damage to commercial crops and commercial livestock qualifying for compensation under this subsection. An owner of a commercial crop or commercial 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 commercial livestock, which may not be set at a value of less than five hundred dollars.

(2)(a) The department may offer to provide noncash compensation only to offset wildlife interactions to a person who applies to the department for compensation for damage to property other than commercial crops or commercial livestock that is the result of a mammalian or avian species of wildlife on a case-specific basis if the conditions of section 56 of this act have been satisfied and if the damage satisfies the criteria for damage established by the commission under this subsection.

(b) The commission shall adopt and maintain by rule criteria for damage to property other than a commercial crop or commercial 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 subsection.

(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.

**NEW SECTION. Sec. 56.** A new section is added to chapter 77.36 RCW to read as follows:

(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 section 55 of this act; 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.

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(c) Under certain circumstances, as determined by the department, wildlife may not logistically or practicably be managed by nonlethal efforts.

(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 preventative efforts undertaken and all permits issued by the department under RCW 77.12.240 and 77.12.150.

**NEW SECTION. Sec. 57.** A new section is added to chapter 77.36 RCW to read as follows:

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 section 55 of this act who is denied a claim or feels the compensation is insufficient; and

(10) Other policies necessary for administering this chapter.

**NEW SECTION. Sec. 58.** A new section is added to chapter 77.36 RCW to read as follows:

(1) Except as otherwise provided in this section and as limited by section 55 of this act and RCW 77.36.070 and 77.36.080, 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, except that, subject to appropriation to pay compensation for damage to commercial livestock, the value of killed or injured commercial livestock may be no more than two hundred dollars per sheep, one thousand five hundred dollars per head of cattle, and one thousand five hundred dollars per horse; 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 commercial livestock filing a claim under section 55 of this act only if the outcome of an appeal filed by the claimant under section 55 of this act 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 commercial livestock, belongs to the claimant.

**Sec. 59.** RCW 77.36.070 and 1996 c 54 s 8 are each amended to read as follows:

The department may pay no more than one hundred twenty thousand dollars per fiscal year from the state wildlife ((fund)) account created in RCW 77.12.170 for claims ((under RCW 77.36.040 and for assessment costs and compromise of claims. Such money shall be used to pay animal damage claims only if the claim meets the conditions of RCW 77.36.040 and the damage occurred in a place where the opportunity to hunt was not restricted or prohibited by a county, municipality, or other public entity during the season prior to the occurrence of the damage)) and assessment costs for damage to commercial crops caused by wild deer or elk submitted under section 55 of this act.

**Sec. 60.** RCW 77.36.080 and 1996 c 54 s 9 are each amended to read as follows:

(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 ((under RCW 77.36.040 and for assessment costs and compromise of claims unless the legislature declares an emergency. Such money shall be used to pay animal damage claims only if the claim meets the conditions of RCW 77.36.040 and the damage occurred in a place where the opportunity to hunt was restricted or prohibited by a county, municipality, or other public entity during the season prior to the occurrence of the damage)) and assessment costs for damage to commercial crops caused by wild deer or elk submitted under section 55 of this act.~~

(2)(a) ~~The legislature may declare an emergency ((defined for the purposes of this section as any happening arising from)) if weather, fire, or other natural ((conditions, or fire that causes unusually great)) events result in deer or elk causing excessive damage to ((commercially raised agricultural or horticultural)) commercial crops ((by deer or elk)). ((fn))~~

(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 77.36.040 and for assessment and compromise of claims)) section 55 of this act. Such money shall be used to pay ((animal damage)) wildlife interaction claims only if the claim meets the conditions of ((RCW 77.36.040)) section 55 of this act and the department has expended all funds authorized under RCW 77.36.070 or subsection (1) of this section.~~

**Sec. 61.** RCW 77.36.030 and 1996 c 54 s 4 are each amended to read as follows:

(1) Subject to ((the following)) 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((; wild animals or wild birds that are damaging crops, domestic animals, or fowl):

— (a) ~~Threatened or endangered species shall not be hunted, trapped, or killed;~~

— (b) ~~Except in an emergency situation, deer, elk, and protected wildlife shall not be killed without a permit issued and conditioned by the director or the director's designee. In an emergency, the department may give verbal permission followed by written permission to trap or kill any deer, elk, or protected wildlife that is damaging crops, domestic animals, or fowl; and~~

— (c) ~~On privately owned cattle ranching lands, the land owner or lessee may declare an emergency only when the department has not responded within forty-eight hours after having been contacted by the land owner or lessee regarding damage caused by wild animals or wild birds. In such an emergency, the owner or lessee may trap or kill any deer, elk, or other protected wildlife that is causing the damage but deer and elk may only be killed if such lands were open to public hunting during the previous hunting season, or the closure to public hunting was coordinated with the department to protect property and livestock).~~

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~~(2) ((Except for coyotes and Columbian ground squirrels,))  
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 ((remain the property of the state, and  
the person trapping or killing the wildlife shall notify the  
department immediately. The department shall dispose of  
wildlife so taken within three days of receiving such a  
notification and in a manner determined by the director to be in  
the best interest of the state)).~~

~~(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.~~

NEW SECTION. Sec. 62. A new section is added to  
chapter 77.36 RCW to read as follows:

This chapter represents the exclusive remedy against the  
state for damage caused by wildlife interactions.

Sec. 63. RCW 77.12.240 and 1989 c 197 s 1 are each  
amended to read as follows:

~~(1) The ((director) 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 ((director or other employees of 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 state wildlife ((fund))  
account created in RCW 77.12.170.~~

NEW SECTION. Sec. 64. The fish and wildlife  
commission shall formally review the rules and policies adopted  
under sections 53 through 66 of this act. If, in the process of  
reviewing the rules, the fish and wildlife commission identifies  
recommended statutory changes related to the subject of sections  
53 through 66 of this act and to the ability of the fish and  
wildlife commission to fulfill the intent of sections 53 through  
66 of this act, those recommendations must be forwarded to the  
appropriate policy committees of the legislature during the  
regularly scheduled 2014 legislative session.

NEW SECTION. Sec. 65. The following acts or parts of  
acts are each repealed:

(1) RCW 77.36.005 (Findings) and 1996 c 54 s 1;

(2) RCW 77.36.020 (Game damage control--Special  
hunt/remedial action) and 2003 c 385 s 1 & 1996 c 54 s 3;

(3) RCW 77.36.040 (Payment of claims for damages--  
Procedure--Limitations) and 1996 c 54 s 5;

(4) RCW 77.36.050 (Claimant refusal--Excessive claims)  
and 1996 c 54 s 6;

(5) RCW 77.36.060 (Claim refused--Posted property) and  
1996 c 54 s 7; and

(6) RCW 77.12.260 (Agreements to prevent damage to  
private property) and 1987 c 506 s 34, 1980 c 78 s 43, & 1955 c  
36 s 77.12.260.

NEW SECTION. Sec. 66. The following sections are each  
decodified:

RCW 77.36.900; and

RCW 77.36.901.

NEW SECTION. Sec. 67. Sections 53 through 66 of this  
act apply prospectively only and not retroactively. Sections 53  
through 66 of this act apply only to claims that arise on or after  
July 1, 2010. Claims under chapter 77.36 RCW that arise prior  
to July 1, 2010, must be adjudicated under chapter 77.36 RCW  
as it existed prior to July 1, 2010.

NEW SECTION. Sec. 68. The fish and wildlife  
commission shall complete all initial rule-making activities that  
are required in order to allow sections 53 through 66 of this act  
to take effect on July 1, 2010.

NEW SECTION. Sec. 69. Sections 53 through 66 of this  
act take effect July 1, 2010.

NEW SECTION. Sec. 70. Section 64 of this act expires  
July 30, 2014.

Sec. 71. RCW 77.32.050 and 2003 c 389 s 1 are each  
amended to read as follows:

(1) All recreational licenses, permits, tags, and stamps  
required by this title and raffle tickets authorized under chapter  
77.12 RCW shall be issued under the authority of the  
commission. The commission shall adopt rules for the issuance  
of recreational licenses, permits, tags, stamps, and raffle tickets,  
and for the collection, payment, and handling of license fees,  
terms and conditions to govern dealers, and dealers' fees. A  
transaction fee on 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. Fees retained by dealers  
shall be uniform throughout the state. The department shall  
authorize dealers to collect and retain dealer fees of at least two  
dollars for purchase of a standard hunting or fishing recreational  
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.

~~(2) For the 2009-2011 biennium, the department shall  
charge an additional transaction fee of ten percent on all  
recreational licenses, permits, tags, stamps, or raffle tickets.  
These transaction fees must be deposited into the state wildlife  
account, created in RCW 77.12.170, for funding fishing and  
hunting opportunities for recreational license holders.~~

Sec. 72. RCW 77.32.350 and 2002 c 283 s 1 are each  
amended to read as follows:

In addition to a small game hunting license, a supplemental  
permit or stamp is required to hunt for ~~((western Washington  
pheasant or))~~ migratory birds.

~~(1) ((A western Washington pheasant permit is required to  
hunt for pheasant in western Washington. Western Washington  
pheasant permits must contain numbered spaces for recording  
the location and date of harvest of each western Washington  
pheasant.~~

~~(2) The permit shall be available as a season option, a youth  
full season option, or a three-day option. The fee for this permit  
is:~~

~~(a) For the resident and nonresident full season option,  
thirty-six dollars;~~

~~(b) For the youth full season option, eighteen dollars;~~

~~(c) For the three-day option, twenty dollars.~~

~~(3) A migratory bird validation is required for all persons  
sixteen years of age or older to hunt migratory birds. The fee for  
the validation for hunters is ten dollars for residents and  
nonresidents. The fee for the stamp for collectors is ten dollars.~~

~~((4)) (2) The migratory bird license must be validated at  
the time of signature of the licensee.~~

NEW SECTION. Sec. 73. A new section is added to  
chapter 77.32 RCW to read as follows:

(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.

NEW SECTION. Sec. 74. If any provision of this act or its  
application to any person or circumstance is held invalid, the  
remainder of the act or the application of the provision to other  
persons or circumstances is not affected."

Senator Jacobsen spoke in favor of adoption of the striking  
amendment.

#### POINT OF ORDER

Senator Benton: "Thank you Mr. President. We've just  
come out of caucus and we found a one seventy-five page

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amendment on our desk and it's right here before us to vote on. I would suggest and I would like to ask that we set the bill aside for a few minutes so we have a chance to read. We all know what trouble we're in in this country, passing bills without reading them and I'd sure like a chance to read this rather large amendment that's just been dropped on my desk in the last five minutes. To come out of caucus immediately and be asked to vote on an amendment this size on an important piece of legislation like this, I don't think it's prudent and I'd like to suggest that we resist that for a few moments and give us a chance to absorb this amendment."

#### REMARKS BY SENATOR EIDE

Senator Eide: "Thank you Mr. President. In response to the good gentleman that just spoke. This amendments been on the bar for quite awhile, in fact we did go to caucus to caucus specifically on the very amendment that you're discussing. So, it has been there and available the whole time. Thank you."

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Jacobsen and others to Substitute House Bill No. 1778.

The motion by Senator Jacobsen carried and the striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "wildlife;" strike the remainder of the title and insert "amending RCW 77.15.050, 77.15.700, 77.15.310, 77.15.320, 77.15.610, 77.32.470, 77.65.010, 77.65.370, 77.65.440, 77.15.510, 77.65.480, 77.08.010, 77.15.370, 77.15.425, 77.15.568, 77.15.620, 77.12.870, 77.12.879, 77.60.150, 77.85.230, 77.85.050, 77.120.030, 77.120.110, 77.120.120, 77.95.200, 77.95.310, 77.12.184, 77.12.190, 77.12.210, 77.12.230, 77.12.323, 77.12.380, 77.12.390, 77.15.100, 77.32.430, 77.32.530, 77.32.560, 77.44.050, 77.12.820, 77.36.010, 77.36.070, 77.36.080, 77.36.030, 77.12.240, 77.32.050, and 77.32.350; reenacting and amending RCW 77.12.170 and 77.12.690; adding new sections to chapter 77.15 RCW; adding new sections to chapter 77.36 RCW; adding new sections to chapter 77.32 RCW; adding a new chapter to Title 77 RCW; creating new sections; decodifying RCW 77.36.900 and 77.36.901; repealing RCW 77.12.065, 77.36.005, 77.36.020, 77.36.040, 77.36.050, 77.36.060, and 77.12.260; prescribing penalties; providing an effective date; and providing an expiration date."

#### MOTION

On motion of Senator Jacobsen, the rules were suspended, Substitute House Bill No. 1778 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Jacobsen and Swecker spoke in favor of passage of the bill.

Senators Morton, Schoesler and Zarelli spoke against passage of the bill.

#### MOTION

On motion of Senator Marr, Senators Brown, Hargrove, Oemig and Tom were excused.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1778 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1778 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 31; Nays, 17; Absent, 0; Excused, 1.

Voting yea: Senators Berkey, Brown, Eide, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Rockefeller, Shin, Swecker and Tom

Voting nay: Senators Becker, Benton, Brandland, Carrell, Delvin, Hewitt, Holmquist, Honeyford, King, McCaslin, Morton, Pflug, Roach, Schoesler, Sheldon, Stevens and Zarelli

Excused: Senator Fairley

SUBSTITUTE HOUSE BILL NO. 1778 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

On motion of Senator Eide, Substitute House Bill No. 1778 was immediately transmitted to the House of Representatives.

The Senate resumed consideration of Engrossed Substitute House Bill No. 1571 which had been deferred earlier in the day.

Senator Rockefeller spoke against the adoption of the amendment to the committee striking amendment.

Senator Honeyford spoke for the adoption of the amendment to the committee striking amendment.

A roll call on the motion had been demanded and sustained earlier in the day.

The President declared the question before the Senate to be the adoption of the amendment by Senator Honeyford on page 12, line 26 to the committee striking amendment to Engrossed Substitute House Bill No. 1571.

#### ROLL CALL

The Secretary called the roll on the adoption of the amendment by Senator Honeyford to the committee striking amendment and the amendment was not adopted by the following vote: Yeas, 20; Nays, 28; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Brandland, Carrell, Delvin, Hatfield, Haugen, Hewitt, Holmquist, Honeyford, King, McCaslin, Morton, Parlette, Pflug, Roach, Schoesler, Stevens, Swecker and Zarelli

Voting nay: Senators Berkey, Brown, Eide, Franklin, Fraser, Hargrove, Hobbs, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller, Sheldon, Shin and Tom

Excused: Senator Fairley

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Environment, Water & Energy as amended to Engrossed Substitute House Bill No. 1571.

The motion by Senator Rockefeller carried and the committee striking amendment as amended was adopted by voice vote.

#### MOTION

There being no objection, the following title amendments were adopted:

On page 1, line 1 of the title, after "control;" strike the remainder of the title and insert "amending RCW 90.50A.020,

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90.50A.030, 90.50A.040, 90.50A.060, and 90.48.110; adding a new section to chapter 90.50A RCW; creating a new section; and declaring an emergency."

On page 1, line 1 of the title, after "rights;" strike the remainder of the title and insert "amending RCW 90.03.110, 90.03.120, 90.03.130, 90.03.140, 90.03.160, 90.03.180, 90.03.200, 90.03.210, 90.03.240, 90.03.243, 90.44.220, and 43.21B.110; adding new sections to chapter 90.03 RCW; creating a new section; and repealing RCW 90.03.170 and 90.03.190."

MOTION

On motion of Senator Rockefeller, the rules were suspended, Engrossed Substitute House Bill No. 1571 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Rockefeller spoke in favor of passage of the bill.

Senator Honeyford spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1571 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1571 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 30; Nays, 17; Absent, 1; Excused, 1.

Voting yea: Senators Berkey, Brown, Eide, Franklin, Fraser, Hatfield, Haugen, Hobbs, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin and Tom

Voting nay: Senators Becker, Benton, Brandland, Carrell, Delvin, Hewitt, Holmquist, Honeyford, King, McCaslin, Morton, Parlette, Pflug, Roach, Stevens, Swecker and Zarelli

Absent: Senator Hargrove

Excused: Senator Fairley

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1571 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 6108, by Senators Prentice, Holmquist and Kohl-Welles

Allowing the state lottery to enter into agreements to conduct multistate shared games.

MOTION

On motion of Senator Prentice, Substitute Senate Bill No. 6108 was substituted for Senate Bill No. 6108 and the substitute bill was placed on the second reading and read the second time.

MOTION

Senator Prentice moved that the following striking amendment by Senator Prentice be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 67.70.044 and 2002 c 349 s 2 are each amended to read as follows:

(1) Pursuant to RCW 67.70.040(1)(a), the commission may enter into the multistate agreement establishing a shared game lottery known as "The Big Game," that was entered into by party

state lotteries in August 1996 and subsequently amended and a shared game lottery known as "Powerball."

(2) The shared game lottery account is created as a separate account outside the state treasury. The account is managed, maintained, and controlled by the commission and consists of all revenues received from the sale of shared game lottery tickets or shares, and all other moneys credited or transferred to it from any other fund or source under law. The account is allotted according to chapter 43.88 RCW."

Senator Prentice spoke in favor of adoption of the striking amendment.

MOTION

Senator Delvin moved that the following amendment by Senator Delvin to the striking amendment be adopted.

On page 1, after line 16, insert the following:

"Sec. 2. RCW 67.70.010 and 2002 c 349 s 1 are each amended to read as follows:

For the purposes of this chapter:

(1) "Commission" means the state lottery commission established by this chapter;

(2) "Director" means the director of the state lottery established by this chapter;

(3) "Interacting with any device or terminal" means operating or playing a terminal that allows for individual play against the device or terminal. Individual play against the device or terminal means the device or terminal has a random number generator at the terminal or device instead of drawing from a predetermined outcome like the electronic scratch ticket terminals authorized by tribal compact;

(4) "state lottery" means the lottery established and operated pursuant to this chapter;

~~((4))~~(5) "Online game" means a lottery game in which a player pays a fee to a lottery retailer and selects a combination of digits, numbers, or symbols, type and amount of play, and receives a computer-generated ticket with those selections, and the lottery separately draws or selects the winning combination or combinations;

~~((5))~~(6) "Shared game lottery" means any lottery activity in which the commission participates under written agreement between the commission, on behalf of the state, and any other state or states.

Renumber the sections consecutively and correct any internal references accordingly.

On page 1, line 19 of the title amendment, after "game", insert "and clarifying definitions"

On page 1, line 19, after "amending", insert "RCW 67.70.010 and"

Senator Delvin spoke in favor of adoption of the amendment to the striking amendment.

Senator Prentice spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Delvin on page 1, after line 16 to the striking amendment to Substitute Senate Bill No. 6108.

The motion by Senator Delvin failed and the amendment to the striking amendment was not adopted by voice vote.

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Prentice to Substitute Senate Bill No. 6108.

The motion by Senator Prentice carried and the striking amendment was adopted by voice vote.

MOTION

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There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "lottery" strike the remainder of the title and insert "commission to enter into an agreement to conduct an additional shared lottery game; and amending RCW 67.70.044."

#### MOTION

On motion of Senator Prentice, the rules were suspended, Engrossed Substitute Senate Bill No. 6108 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Prentice spoke in favor of passage of the bill.

#### POINT OF ORDER

Senator Schoesler: "Thank you Mr. President. In the past you have ruled whether or not different bills were an expansion of gambling and therefore took a two-thirds vote to pass it. Therefore I would ask that Substitute Senate Bill No. 6108 comprise an expansion of gambling that would require two-thirds vote for passage."

#### REPLY BY THE PRESIDENT

President Owen: "Senator Schoesler, the President has rulings on points specifically on this issue and he believes that this is not considered an expansion of gambling. It would take a simple majority."

#### POINT OF ORDER

Senator Benton: "Thank you Mr. President, I rise to a point of order. Not to challenge you at all sir but I believe this may be have a little different twist. Maybe you've already looked at this particular one. This is not a multi-state lottery issue. This, the way I understand, it will allow us to enter into an agreement with other states to sell their lottery tickets in our state and visa versa. If that's the case we'll be offering lottery games that are offered from other states. That would seem to be that would indeed constitute an expansion of gambling in Washington State. So, again different, maybe a little different twist, we're hoping you might have a different ruling on this particular bill."

#### RULING BY THE PRESIDENT

President Owen: "I would not. Senator Benton, the President does not wish to elaborate because once I've made my ruling, I've made my ruling and so I do not go back and elaborate on the ruling once that's been done."

#### MOTION

On motion of Senator Marr, Senators Brown and Hargrove were excused.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6108.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6108 and the bill passed the Senate by the following vote: Yeas, 35; Nays, 12; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Berkey, Brandland, Brown, Delvin, Eide, Franklin, Fraser, Hatfield, Hewitt, Hobbs, Holmquist, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe,

McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller, Sheldon, Shin, Tom and Zarelli

Voting nay: Senators Benton, Carrell, Haugen, Honeyford, McCaslin, Morton, Parlette, Pflug, Roach, Schoesler, Stevens and Swecker

Excused: Senators Fairley and Hargrove

ENGROSSED SUBSTITUTE SENATE BILL NO. 6108, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

On motion of Senator Eide, Engrossed Substitute Senate Bill No. 6108 was immediately transmitted to the House of Representatives.

#### SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 1021, by House Committee on Health & Human Services Appropriations (originally sponsored by Representatives Campbell, Morrell and Moeller)

Concerning prior notice of hospital surveys and audits. Revised for 2nd Substitute: Concerning notice of hospital audits.

The measure was read the second time.

#### MOTION

Senator Pflug moved that the following amendment by Senators Pflug and Keiser be adopted.

On page 3, after line 5, insert the following:

"Sec. 3. RCW 70.38.105 and 2009 c ... (ESB 5423) s 1 are each amended to read as follows:

(1) The department is authorized and directed to implement the certificate of need program in this state pursuant to the provisions of this chapter.

(2) There shall be a state certificate of need program which is administered consistent with the requirements of federal law as necessary to the receipt of federal funds by the state.

(3) No person shall engage in any undertaking which is subject to certificate of need review under subsection (4) of this section without first having received from the department either a certificate of need or an exception granted in accordance with this chapter.

(4) The following shall be subject to certificate of need review under this chapter:

(a) The construction, development, or other establishment of a new health care facility;

(b) The sale, purchase, or lease of part or all of any existing hospital as defined in RCW 70.38.025;

(c) Any capital expenditure for the construction, renovation, or alteration of a nursing home which substantially changes the services of the facility after January 1, 1981, provided that the substantial changes in services are specified by the department in rule;

(d) Any capital expenditure for the construction, renovation, or alteration of a nursing home which exceeds the expenditure minimum as defined by RCW 70.38.025. However, a capital expenditure which is not subject to certificate of need review under (a), (b), (c), or (e) of this subsection and which is solely for any one or more of the following is not subject to certificate of need review:

(i) Communications and parking facilities;

(ii) Mechanical, electrical, ventilation, heating, and air conditioning systems;

(iii) Energy conservation systems;



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(iv) Repairs to, or the correction of, deficiencies in existing physical plant facilities which are necessary to maintain state licensure, however, other additional repairs, remodeling, or replacement projects that are not related to one or more deficiency citations and are not necessary to maintain state licensure are not exempt from certificate of need review except as otherwise permitted by (d)(vi) of this subsection or RCW 70.38.115(13);

(v) Acquisition of equipment, including data processing equipment, which is not or will not be used in the direct provision of health services;

(vi) Construction or renovation at an existing nursing home which involves physical plant facilities, including administrative, dining areas, kitchen, laundry, therapy areas, and support facilities, by an existing licensee who has operated the beds for at least one year;

(vii) Acquisition of land; and

(viii) Refinancing of existing debt;

(e) A change in bed capacity of a health care facility which increases the total number of licensed beds or redistributes beds among acute care, nursing home care, and boarding home care if the bed redistribution is to be effective for a period in excess of six months, or a change in bed capacity of a rural health care facility licensed under RCW 70.175.100 that increases the total number of nursing home beds or redistributes beds from acute care or boarding home care to nursing home care if the bed redistribution is to be effective for a period in excess of six months. A health care facility certified as a critical access hospital under 42 U.S.C. 1395i-4 may increase its total number of licensed beds to the total number of beds permitted under 42 U.S.C. 1395i-4 for acute care and may redistribute beds permitted under 42 U.S.C. 1395i-4 among acute care and nursing home care without being subject to certificate of need review. If there is a nursing home licensed under chapter 18.51 RCW within twenty-seven miles of the critical access hospital, the critical access hospital is subject to certificate of need review except for:

(i) Critical access hospitals which had designated beds to provide nursing home care, in excess of five swing beds, prior to December 31, 2003;

(ii) Up to five swing beds; or

(iii) Up to twenty-five swing beds for critical access hospitals which do not have a nursing home licensed under chapter 18.51 RCW within the same city or town limits. ~~(No more than))~~ Up to one-half of the additional beds designated for swing bed services under this subsection (4)(e)(iii) may be so designated before July 1, ~~((2009))~~ 2010, with the balance designated ~~((no sooner than))~~ on or after July 1, 2010.

Critical access hospital beds not subject to certificate of need review under this subsection (4)(e) will not be counted as either acute care or nursing home care for certificate of need review purposes. If a health care facility ceases to be certified as a critical access hospital under 42 U.S.C. 1395i-4, the hospital may revert back to the type and number of licensed hospital beds as it had when it requested critical access hospital designation;

(f) Any new tertiary health services which are offered in or through a health care facility or rural health care facility licensed under RCW 70.175.100, and which were not offered on a regular basis by, in, or through such health care facility or rural health care facility within the twelve-month period prior to the time such services would be offered;

(g) Any expenditure for the construction, renovation, or alteration of a nursing home or change in nursing home services in excess of the expenditure minimum made in preparation for any undertaking under subsection (4) of this section and any arrangement or commitment made for financing such undertaking. Expenditures of preparation shall include expenditures for architectural designs, plans, working drawings,

and specifications. The department may issue certificates of need permitting predevelopment expenditures, only, without authorizing any subsequent undertaking with respect to which such predevelopment expenditures are made; and

(h) Any increase in the number of dialysis stations in a kidney disease center.

(5) The department is authorized to charge fees for the review of certificate of need applications and requests for exemptions from certificate of need review. The fees shall be sufficient to cover the full cost of review and exemption, which may include the development of standards, criteria, and policies.

(6) No person may divide a project in order to avoid review requirements under any of the thresholds specified in this section."

Senator Pflug spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Pflug and Keiser on page 3, after line 5 to Second Substitute House Bill No. 1021.

The motion by Senator Pflug carried and the amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "audits;" strike the remainder of the title and insert "and amending RCW 70.41.120, 70.41.122, and 70.38.105."

#### MOTION

On motion of Senator Keiser, the rules were suspended, Second Substitute House Bill No. 1021 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Keiser and Pflug spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 1021 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 1021 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator Fairley

SECOND SUBSTITUTE HOUSE BILL NO. 1021 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1138, by House Committee on Judiciary (originally sponsored by Representatives Liias, Clibborn, Moeller, Green, Cody, Driscoll, Morrell and Pedersen)

Concerning access to employee restrooms in retail stores.

The measure was read the second time.

#### MOTION

Senator Kline moved that the following committee striking amendment by the Committee on Judiciary be adopted.

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** A new section is added to chapter 70.54 RCW to read as follows:

(1) A retail establishment that has a restroom facility for its employees must allow a customer to use that facility during normal business hours if the customer requesting the use of the employee restroom facility has been diagnosed with an eligible medical condition or uses an ostomy device, and provides evidence of the existence of the eligible medical condition or device in writing in the form of either:

(a) A signed statement by the customer's health care provider that shall be on a form that has been prepared by the department of health under subsection (2) of this section; or

(b) An identification card that is issued by a nonprofit organization whose purpose includes serving individuals who suffer from an eligible medical condition or use an ostomy device.

(2) The department of health shall develop a standard electronic form that may be signed by a health care provider as evidence of the existence of an eligible medical condition or use of an ostomy device as required by subsection (1) of this section. The form shall include a brief description of a customer's rights under this section and shall be made available for a customer or his or her health care provider to access by computer. Nothing in this section requires the department to distribute printed versions of the form.

(3) Use of a fraudulent form as evidence of the existence of an eligible medical condition or use of an ostomy device is a misdemeanor punishable under RCW 9A.20.010.

(4) A retail establishment that has a restroom facility for its employees must allow a customer to use that facility during normal business hours if all of the following conditions are met:

(a) Three or more employees of the retail establishment are working at the time the customer requests use of the employee restroom facility;

(b) The retail establishment does not normally make a restroom available to the public;

(c) The restroom facility itself is reasonably safe and is not located in an area where providing access would create an obvious health or safety risk to the customer; and

(d) Allowing the customer to access the restroom facility does not pose a security risk to the retail establishment or its employees.

(5) For a first violation of this section, the city or county attorney shall issue a warning letter to the retail establishment and employee informing the establishment and employee of the requirements of this section. A retail establishment or an employee of a retail establishment that violates this section after receiving a warning letter is guilty of a civil infraction. The fine for a first infraction must not exceed one hundred dollars.

(6) A retail establishment is not required to make any physical changes to an employee restroom facility under this section and may require that an employee accompany the customer to the employee restroom facility.

(7) A retail establishment or an employee of a retail establishment is not civilly liable for any act or omission in allowing a customer to use an employee restroom facility that is not a public restroom if the act or omission meets all of the following:

(a) It is not willful or grossly negligent;

(b) It occurs in an area of the retail establishment that is not accessible to the public; and

(c) It results in an injury to or death of the customer or any individual other than an employee accompanying the customer.

(8) For purposes of this section:

(a) "Customer" means an individual who is lawfully on the premises of a retail establishment.

(b) "Eligible medical condition" means Crohn's disease, ulcerative colitis, any other inflammatory bowel disease, irritable bowel syndrome, or any other permanent or temporary medical condition that requires immediate access to a restroom facility.

(c) "Health care provider" means an advanced registered nurse practitioner licensed under chapter 18.79 RCW, an osteopathic physician or surgeon licensed under chapter 18.57 RCW, an osteopathic physician assistant licensed under chapter 18.57A RCW, a physician or surgeon licensed under chapter 18.71 RCW, or a physician assistant licensed under chapter 18.71A RCW.

(d) "Retail establishment" means a place of business open to the general public for the sale of goods or services. Retail establishment does not include any structure such as a filling station, service station, or restaurant of eight hundred square feet or less that has an employee restroom facility located within that structure."

Senator Kline spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Judiciary to Engrossed Substitute House Bill No. 1138.

The motion by Senator Kline carried and the committee striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "establishment," strike the remainder of the title and insert "adding a new section to chapter 70.54 RCW; and prescribing penalties."

#### MOTION

On motion of Senator Stevens, Senator Roach was excused.

#### MOTION

On motion of Senator Kline, the rules were suspended, Engrossed Substitute House Bill No. 1138 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kline and Hargrove spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1138 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1138 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 41; Nays, 6; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug,

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Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Swecker and Tom

Voting nay: Senators Becker, Holmquist, Honeyford, King, Stevens and Zarelli

Excused: Senators Fairley and Roach

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1138 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 1397, by House Committee on Health Care & Wellness (originally sponsored by Representatives Moeller, Ericksen, Cody, Green, Hinkle, Morrell, Bailey, Williams, Nelson and Wood)

Concerning the delegation of authority to registered nurses.

The measure was read the second time.

#### MOTION

On motion of Senator Franklin, the rules were suspended, Substitute House Bill No. 1397 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Franklin spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1397.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1397 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator Fairley

SUBSTITUTE HOUSE BILL NO. 1397, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SIGNED BY THE PRESIDENT

The President has signed:

SUBSTITUTE SENATE BILL NO. 5044,  
SUBSTITUTE SENATE BILL NO. 5117,  
SUBSTITUTE SENATE BILL NO. 5267,  
SUBSTITUTE SENATE BILL NO. 5276,  
SENATE BILL NO. 5298,  
SENATE BILL NO. 5303,  
SUBSTITUTE SENATE BILL NO. 5326,  
SUBSTITUTE SENATE BILL NO. 5480,  
SENATE BILL NO. 5587,  
SECOND SUBSTITUTE SENATE BILL NO. 5676,  
SUBSTITUTE SENATE BILL NO. 5752,  
SUBSTITUTE SENATE BILL NO. 5765,  
SUBSTITUTE SENATE BILL NO. 5882,

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 1529, by House Committee on Health Care & Wellness (originally sponsored by

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Representatives Seaquist, Hinkle, Morrell, Bailey, Moeller, Clibborn, Green and Cody)

Concerning telemedicine.

The measure was read the second time.

#### MOTION

Senator Franklin moved that the following committee striking amendment by the Committee on Health & Long-Term Care be adopted.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 74.09 RCW to read as follows:

(1) The home health program shall require registered nurse oversight and intervention, as appropriate. In-person contact between a home health care registered nurse and a patient is not required under the state's medical assistance program for home health services that are: (a) Delivered with the assistance of telemedicine and (b) otherwise eligible for reimbursement as a medically necessary skilled home health nursing visit under the program.

(2) The department in consultation with home health care service providers shall develop reimbursement rules and, in rule, define the requirements that must be met for a reimbursable skilled nursing visit when services are rendered without a face-to-face visit and are assisted by telemedicine.

(3)(a) The department shall establish the reimbursement rate for skilled home health nursing services delivered with the assistance of telemedicine that meet the requirements of a reimbursable visit as defined by the department.

(b) Reimbursement is not provided for purchase or lease of telemedicine equipment.

(4) Any home health agency licensed under chapter 70.127 RCW and eligible for reimbursement under the medical programs authorized under this chapter may be reimbursed for services under this section if the service meets the requirements for a reimbursable skilled nursing visit as defined by the department.

(5) Nothing in this section shall be construed to alter the scope of practice of any home health care services provider or authorizes the delivery of home health care services in a setting or manner not otherwise authorized by law.

(6) The use of telemedicine is not intended to replace registered nurse health care visit when necessary.

(7) For the purposes of this section, "telemedicine" means the use of telemonitoring to enhance the delivery of certain home health medical services through:

(a) The provision of certain education related to health care services using audio, video, or data communication instead of a face-to-face visit; or

(b) The collection of clinical data and the transmission of such data between a patient at a distant location and the home health provider through electronic processing technologies. Objective clinical data that may be transmitted includes, but is not limited to, weight, blood pressure, pulse, respirations, blood glucose, and pulse oximetry."

Senator Franklin spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Health & Long-Term Care to Substitute House Bill No. 1529.

The motion by Senator Franklin carried and the committee striking amendment was adopted by voice vote.

#### MOTION

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There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "telemedicine;" strike the remainder of the title and insert "and adding a new section to chapter 74.09 RCW."

## MOTION

On motion of Senator Franklin, the rules were suspended, Substitute House Bill No. 1529 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Franklin spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1529 as amended by the Senate.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1529 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator Fairley

SUBSTITUTE HOUSE BILL NO. 1529 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SUBSTITUTE HOUSE BILL NO. 1413, by House Committee on Agriculture & Natural Resources (originally sponsored by Representatives McCoy, Nelson, Quall and Blake)

Concerning water discharge fees.

The measure was read the second time.

## MOTION

On motion of Senator Rockefeller, the rules were suspended, Substitute House Bill No. 1413 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Rockefeller, Marr and Swecker spoke in favor of passage of the bill.

Senators Honeyford and Carrell spoke against passage of the bill.

## POINT OF ORDER

Senator Benton: "Thank you Mr. President. This is an eighteen cent per month per household tax, is what it is. It's a tax increase and I'm very concerned about tax increases especially this time of year although most of you know I'm concerned about tax increases all the time, not just during economic crisis but even more so especially during economic crisis. I'm concerned about tax increases and so this is a very specific tax increase, let's make no doubt about it, on every

household in the state of Washington and I would like to ask, Mr. President, if this bill requires a two-thirds vote to pass?"

## RULING BY THE PRESIDENT

President Owen: "Senator Benton, in ruling upon your point of order, the President finds that the eighteen cents that is collected is for the expenses, to pay for the expenses for issuing and administering each class or permits under RCW 90.48.160, 90.48.162 and 90.48.260. It adjusts the fee therefore the President believes that it is a fee. It is not a tax and, therefore, requires a simple majority to pass."

Senators Benton and Roach spoke against passage of the bill.

Senator Fraser spoke in favor of passage of the bill.

## MOTION

On motion of Senator Marr, Senator Kline was excused.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1413.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1413 and the bill passed the Senate by the following vote: Yeas, 28; Nays, 19; Absent, 0; Excused, 2.

Voting yea: Senators Berkey, Brown, Eide, Franklin, Fraser, Hargrove, Hatfield, Hobbs, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller, Shin, Swecker and Tom

Voting nay: Senators Becker, Benton, Brandland, Carrell, Delvin, Haugen, Hewitt, Holmquist, Honeyford, King, McCaslin, Morton, Parlette, Pflug, Roach, Schoesler, Sheldon, Stevens and Zarelli

Excused: Senators Fairley and Kline

SUBSTITUTE HOUSE BILL NO. 1413, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SUBSTITUTE HOUSE BILL NO. 1740, by House Committee on Health Care & Wellness (originally sponsored by Representatives Cody and Hinkle)

Regarding the issuance of licenses to practice dentistry.

The measure was read the second time.

## MOTION

Senator Keiser moved that the following committee striking amendment by the Committee on Health & Long-Term Care be adopted.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 18.32.195 and 2005 c 454 s 1 and 2005 c 164 s 1 are each reenacted and amended to read as follows:

The commission may, without examination, issue a license to persons who possess the qualifications set forth in this section.

(1) The commission may, upon written request of the dean of the school of dentistry of the University of Washington, issue a license to practice dentistry in this state to persons who have been licensed or otherwise authorized to practice dentistry in

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another state or country and who have been accepted for employment by the school of dentistry as faculty members. For purposes of this subsection, this means teaching members of the faculty of the school of dentistry of the University of Washington. Such license shall permit the holder thereof to practice dentistry within the confines of the university facilities for a period of one year while he or she is so employed as a faculty member by the school of dentistry of the University of Washington. It shall terminate whenever the holder ceases to be a faculty member. Such license shall permit the holder thereof to practice dentistry only in connection with his or her duties in employment with the school of dentistry of the University of Washington. This limitation shall be stated on the license.

(2) The commission may, upon written request of the dean of the school of dentistry of the University of Washington or the director of a postdoctoral dental residency program ((under RCW 18.32.040)) approved by the commission, issue a limited license to practice dentistry in this state to university postdoctoral students or residents in ((postgraduate)) dental education or ((postdoctorate)) to postdoctoral residents in a dental residency program ((under RCW 18.32.040)) approved by the commission. Prior to July 1, 2010, a dental residency program must be accredited by the commission on dental accreditation, or be in the process of obtaining such accreditation, in order to be approved by the commission. On or after July 1, 2010, the dental residency program must be accredited by the commission on dental accreditation in order to be approved by the commission. The license shall permit the resident dentist to provide dental care only in connection with his or her duties as a university postdoctoral dental student or resident or a ((postdoctorate)) postdoctoral resident in a program ((under RCW 18.32.040)) approved by the commission.

(3) The commission may condition the granting of a license under this section with terms the commission deems appropriate. All persons licensed under this section shall be subject to the jurisdiction of the commission to the same extent as other members of the dental profession, in accordance with this chapter, and in addition the licensee may be disciplined by the commission after a hearing has been held in accordance with the provisions set forth in this chapter, and determination by the commission that such licensee has violated any of the restrictions set forth in this section.

(4) Persons applying for licensure pursuant to this section shall pay the application fee determined by the secretary and, in the event the license applied for is issued, a license fee at the rate provided for licenses generally. After review by the commission, licenses issued under this section may be renewed annually if the licensee continues to be employed as a faculty member of the school of dentistry of the University of Washington, or is a university postdoctoral student or resident in ((postgraduate)) dental education, or a ((postdoctorate)) postdoctoral resident in a dental residency program ((under RCW 18.32.040)) approved by the commission, and otherwise meets the requirements of the provisions and conditions deemed appropriate by the commission. Any person who obtains a license pursuant to this section may, without an additional application fee, apply for licensure under this chapter, in which case the applicant shall be subject to examination and the other requirements of this chapter.

**NEW SECTION. Sec. 2.** 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."

Senator Keiser spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the

Committee on Health & Long-Term Care to Substitute House Bill No. 1740.

The motion by Senator Keiser carried and the committee striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "dentistry;" strike the remainder of the title and insert "reenacting and amending RCW 18.32.195; and declaring an emergency."

#### MOTION

On motion of Senator Keiser, the rules were suspended, Substitute House Bill No. 1740 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Keiser and Pflug spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1740 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1740 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 2; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Carrell, Delvin, Eide, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Absent: Senators Brown and Ranker

Excused: Senators Fairley and Kline

SUBSTITUTE HOUSE BILL NO. 1740, as amended by the Senate having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

On motion of Senator Marr, Senators Brown and Ranker were excused.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 2052, by House Committee on Ways & Means (originally sponsored by Representative Cody)

Delaying the implementation of the health insurance partnership.

The measure was read the second time.

#### MOTION

On motion of Senator Keiser, the rules were suspended, Substitute House Bill No. 2052 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Keiser and Pflug spoke in favor of passage of the bill.

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The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2052.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2052 and the bill passed the Senate by the following vote: Yeas, 41; Nays, 5; Absent, 1; Excused, 2.

Voting yea: Senators Becker, Berkey, Brandland, Brown, Delvin, Eide, Franklin, Fraser, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Regala, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senators Benton, Carrell, McCaslin, Morton and Roach

Absent: Senator Hargrove

Excused: Senators Fairley and Ranker

SUBSTITUTE HOUSE BILL NO. 2052, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

HOUSE JOINT MEMORIAL NO. 4000, by Representatives O'Brien, Warnick, Takko, Morrell, Hasegawa, Simpson and Moeller

Requesting passage of the federal act to restore payment of county health care costs.

The measure was read the second time.

## MOTION

On motion of Senator Regala, the rules were suspended, House Joint Memorial No. 4000 was advanced to third reading, the second reading considered the third and the memorial was placed on final passage.

Senator Regala spoke in favor of passage of the bill.

## MOTION

On motion of Senator Marr, Senators Hargrove and Kastama were excused.

The President declared the question before the Senate to be the final passage of House Joint Memorial No. 4000.

## ROLL CALL

The Secretary called the roll on the final passage of House Joint Memorial No. 4000 and the memorial passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Fairley, Hargrove, Kastama and Ranker

HOUSE JOINT MEMORIAL NO. 4000, having received the constitutional majority, was declared passed.

## SECOND READING

SUBSTITUTE HOUSE BILL NO. 2079, by House Committee on Health Care & Wellness (originally sponsored by Representatives Cody, Ericksen and Morrell)

Concerning the office of financial management's access to health professional licensing information.

The measure was read the second time.

## MOTION

Senator Franklin moved that the following committee striking amendment by the Committee on Health & Long-Term Care be adopted.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 43.370.020 and 2007 c 259 s 51 are each amended to read as follows:

(1) The office shall serve as a coordinating body for public and private efforts to improve quality in health care, promote cost-effectiveness in health care, and plan health facility and health service availability. In addition, the office shall facilitate access to health care data collected by public and private organizations as needed to conduct its planning responsibilities.

(2) The office shall:

(a) Conduct strategic health planning activities related to the preparation of the strategy, as specified in this chapter;

(b) Develop a computerized system for accessing, analyzing, and disseminating data relevant to strategic health planning responsibilities. The office may contract with an organization to create the computerized system capable of meeting the needs of the office;

(c) ~~(Maintain access to deidentified data collected and stored by any public and private organizations as necessary to support its planning responsibilities, including state purchased health care program data, hospital discharge data, and private efforts to collect utilization and claims-related data. The office is authorized to enter into any data sharing agreements and contractual arrangements necessary to obtain data or to distribute data. Among the sources of deidentified data that the office may access are any databases established pursuant to the recommendations of the health information infrastructure advisory board established by chapter 261, Laws of 2005. The office may store limited data sets as necessary to support its activities. Unless specifically authorized, the office shall not collect data directly from the records of health care providers and health care facilities, but shall make use of databases that have already collected such information))~~ Have access to the information submitted as part of the health professional licensing application and renewal process, excluding social security number and background check information, whether the license is issued by the secretary of the department of health or a board or commission. The office shall also have access to information submitted to the department of health as part of the medical or health facility licensing process. Access to and use of all data shall be in accordance with state and federal confidentiality laws and ethical guidelines, and the office shall maintain the same degree of confidentiality as the department of health. For professional licensing information provided to the office, the department of health shall replace any social security number with an alternative identifier capable of linking all licensing records of an individual; and

(d) Conduct research and analysis or arrange for research and analysis projects to be conducted by public or private organizations to further the purposes of the strategy.

(3) The office shall establish a technical advisory committee to assist in the development of the strategy. Members of the committee shall include health economists, health planners,

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representatives of government and nongovernment health care purchasers, representatives of state agencies that use or regulate entities with an interest in health planning, representatives of acute care facilities, representatives of long-term care facilities, representatives of community-based long-term care providers, representatives of health care providers, a representative of one or more federally recognized Indian tribes, and representatives of health care consumers. The committee shall include members with experience in the provision of health services to rural communities.

**Sec. 2.** RCW 43.70.050 and 2005 c 274 s 301 are each amended to read as follows:

(1) The legislature intends that the department and board promote and assess the quality, cost, and accessibility of health care throughout the state as their roles are specified in chapter 9, Laws of 1989 1st ex. sess. in accordance with the provisions of this chapter. In furtherance of this goal, the secretary shall create an ongoing program of data collection, storage, assessability, and review. The legislature does not intend that the department conduct or contract for the conduct of basic research activity. The secretary may request appropriations for studies according to this section from the legislature, the federal government, or private sources.

(2) All state agencies which collect or have access to population-based, health-related data are directed to allow the secretary access to such data. This includes, but is not limited to, data on needed health services, facilities, and personnel; future health issues; emerging bioethical issues; health promotion; recommendations from state and national organizations and associations; and programmatic and statutory changes needed to address emerging health needs. Private entities, such as insurance companies, health maintenance organizations, and private purchasers are also encouraged to give the secretary access to such data in their possession. The secretary's access to and use of all data shall be in accordance with state and federal confidentiality laws and ethical guidelines. Such data in any form where the patient or provider of health care can be identified shall not be disclosed, subject to disclosure according to chapter 42.56 RCW, discoverable or admissible in judicial or administrative proceedings. Such data can be used in proceedings in which the use of the data is clearly relevant and necessary and both the department and the patient or provider are parties.

(3) The department shall serve as the clearinghouse for information concerning innovations in the delivery of health care services, the enhancement of competition in the health care marketplace, and federal and state information affecting health care costs.

(4) The secretary shall review any data collected, pursuant to this chapter, to:

(a) Identify high-priority health issues that require study or evaluation. Such issues may include, but are not limited to:

(i) Identification of variations of health practice which indicate a lack of consensus of appropriateness;

(ii) Evaluation of outcomes of health care interventions to assess their benefit to the people of the state;

(iii) Evaluation of specific population groups to identify needed changes in health practices and services;

(iv) Evaluation of the risks and benefits of various incentives aimed at individuals and providers for both preventing illnesses and improving health services;

(v) Identification and evaluation of bioethical issues affecting the people of the state; and

(vi) Other such objectives as may be appropriate;

(b) Further identify a list of high-priority health study issues for consideration by the board, within their authority, for inclusion in the state health report required by RCW 43.20.050. The list shall specify the objectives of each study, a study timeline, the specific improvements in the health status of the

citizens expected as a result of the study, and the estimated cost of the study; and

(c) Provide background for the state health report required by RCW 43.20.050.

(5) Any data, research, or findings may also be made available to the general public, including health professions, health associations, the governor, professional boards and regulatory agencies and any person or group who has allowed the secretary access to data.

(6) Information submitted as part of the health professional licensing application and renewal process, excluding social security number and background check information, shall be available to the office of financial management consistent with RCW 43.370.020, whether the license is issued by the secretary of the department of health or a board or commission. The department shall replace any social security number with an alternative identifier capable of linking all licensing records of an individual. The office of financial management shall also have access to information submitted to the department of health as part of the medical or health facility licensing process.

(7) The secretary may charge a fee to persons requesting copies of any data, research, or findings. The fee shall be no more than necessary to cover the cost to the department of providing the copy."

Senator Franklin spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Health & Long-Term Care to Substitute House Bill No. 2079.

The motion by Senator Franklin carried and the committee striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "information;" strike the remainder of the title and insert "and amending RCW 43.370.020 and 43.70.050."

#### MOTION

On motion of Senator Franklin, the rules were suspended, Substitute House Bill No. 2079 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Franklin and Pflug spoke in favor of passage of the bill.

#### MOTION

On motion of Senator Marr, Senators Oemig and Rockefeller were excused.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2079 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2079 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kauffman, Keiser, Kilmer, King, Kline, Kohl-

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Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Regala, Roach, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Fairley, Kastama, Ranker and Rockefeller  
SUBSTITUTE HOUSE BILL NO. 2079 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2105, by House Committee on Health Care & Wellness (originally sponsored by Representatives Cody and Morrell)

Concerning diagnostic imaging services.

The measure was read the second time.

#### MOTION

On motion of Senator Keiser, the rules were suspended, Engrossed Substitute House Bill No. 2105 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Keiser and Pflug spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2105.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2105 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 2; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Jacobsen, Jarrett, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senators Holmquist and Honeyford

Excused: Senators Fairley, Kastama and Ranker

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2105, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 1300, by House Committee on Human Services (originally sponsored by Representatives Hurst, Dickerson, Pearson, Klippert, O'Brien and Smith)

Accessing mental health information.

The measure was read the second time.

#### MOTION

On motion of Senator Eide, further consideration of Engrossed Substitute House Bill No. 1300 was deferred and the bill held its place on the second reading calendar.

#### SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2021, by House Committee on Education Appropriations (originally sponsored by Representatives Kenney, Probst, Wallace, Sullivan, Priest, Maxwell, Chase, Ormsby, Hudgins, Jacks, Liias, White, Sells, Morrell, Kelley, Darnelle, Wood and Roberts)

Revitalizing student financial aid.

The measure was read the second time.

#### MOTION

Senator Kilmer moved that the following committee striking amendment by the Committee on Higher Education & Workforce Development be adopted.

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that a myriad of financial aid programs exist for students at the federal, state, local, community, and institutional levels. These programs enable thousands of students across Washington to access all sectors of higher education, from apprenticeship programs to public and private four and two-year institutions of higher education. The legislature further finds that Washington state is a national leader in the distribution of financial aid to increase college access and affordability, ranking fourth in the nation in 2007 in terms of state student grant aid funding per capita.

It is the intent of the legislature to promote and expand access to state financial aid programs by determining which programs provide the greatest value to the largest number of students, and by fully supporting those programs. Furthermore, it is the intent of the legislature to designate all existing financial aid an opportunity pathway, with the effect of providing students with a clear understanding of available resources to pay for postsecondary education, thereby increasing access to postsecondary education and meeting the needs of local business and industry.

It is the intent of the legislature that the higher education coordinating board, the state board for community and technical colleges, the office of the superintendent of public instruction, the workforce training and education coordinating board, and institutions of higher education coordinate the development of outreach tools, such as a web-based portal for information on all opportunity pathway aid programs. The information should be communicated in a format and manner that provides an ease of understanding for students and their families and include other pertinent information on institutions of higher education, costs, and academic programs. It is also the intent of the legislature for institutions of higher education to incorporate this information in promotional materials to prospective and current students and their families.

**NEW SECTION. Sec. 2.** A new section is added to chapter 28B.101 RCW to read as follows:

(1) The legislature intends to consolidate the educational opportunity grant program over a period of two years. As of August 1, 2009, no new educational opportunity grants may be made. Persons who have been selected by the higher education coordinating board to receive a grant before August 1, 2009, shall receive the full amount of their award, not to exceed two thousand five hundred dollars per academic year for a maximum of two years. All persons awarded an educational opportunity grant before August 1, 2009, must complete using the award before August 1, 2011. For these recipients, eligibility for the grant is forfeited after this period.

(2) This section expires August 1, 2011.

**NEW SECTION. Sec. 3.** A new section is added to chapter 28B.92 RCW to read as follows:



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(1) To the extent funds are appropriated for this purpose and within overall appropriations for the state need grant, enhanced need grants are provided for persons who meet all of the following criteria:

- (a) Are needy students as defined in RCW 28B.92.030;
- (b) Are placebound students as defined in RCW 28B.92.030; and
- (c) Have completed the associate of arts or the associate of science degree, or its equivalent.

(2) The enhanced need grants established in this section are provided to this specific group of students in addition to the base state need grant, as defined by rule of the board.

**Sec. 4.** RCW 28B.92.060 and 2007 c 404 s 2 are each amended to read as follows:

In awarding need grants, the board shall proceed substantially as follows: PROVIDED, That nothing contained herein shall be construed to prevent the board, in the exercise of its sound discretion, from following another procedure when the best interest of the program so dictates:

(1) The board shall annually select the financial aid award recipients from among Washington residents applying for student financial aid who have been ranked according to:

- (a) Financial need as determined by the amount of the family contribution; and
- (b) Other considerations, such as whether the student is a former foster youth, or is a placebound student who has completed an associate of arts or associate of science degree or its equivalent.

(2) The financial need of the highest ranked students shall be met by grants depending upon the evaluation of financial need until the total allocation has been disbursed. Funds from grants which are declined, forfeited or otherwise unused shall be reawarded until disbursed, except that eligible former foster youth shall be assured receipt of a grant.

(3) A student shall be eligible to receive a state need grant for up to five years, or the credit or clock hour equivalent of five years, or up to one hundred twenty-five percent of the published length of time of the student's program. A student may not start a new associate degree program as a state need grant recipient until at least five years have elapsed since earning an associate degree as a need grant recipient, except that a student may earn two associate degrees concurrently. Qualifications for renewal will include maintaining satisfactory academic progress toward completion of an eligible program as determined by the board. Should the recipient terminate his or her enrollment for any reason during the academic year, the unused portion of the grant shall be returned to the state educational grant fund by the institution according to the institution's own policy for issuing refunds, except as provided in RCW 28B.92.070.

(4) In computing financial need, the board shall determine a maximum student expense budget allowance, not to exceed an amount equal to the total maximum student expense budget at the public institutions plus the current average state appropriation per student for operating expense in the public institutions. Any child support payments received by students who are parents attending less than half-time shall not be used in computing financial need.

(5)(a) A student who is enrolled in three to six credit-bearing quarter credits, or the equivalent semester credits, may receive a grant for up to one academic year before beginning a program that leads to a degree or certificate.

(b) An eligible student enrolled on a less-than-full-time basis shall receive a prorated portion of his or her state need grant for any academic period in which he or she is enrolled on a less-than-full-time basis, as long as funds are available.

(c) An institution of higher education may award a state need grant to an eligible student enrolled in three to six credit-bearing quarter credits, or the semester equivalent, on a provisional basis if:

(i) The student has not previously received a state need grant from that institution;

(ii) The student completes the required free application for federal student aid;

(iii) The institution has reviewed the student's financial condition, and the financial condition of the student's family if the student is a dependent student, and has determined that the student is likely eligible for a state need grant; and

(iv) The student has signed a document attesting to the fact that the financial information provided on the free application for federal student aid and any additional financial information provided directly to the institution is accurate and complete, and that the student agrees to repay the institution for the grant amount if the student submitted false or incomplete information.

(6) As used in this section, "former foster youth" means a person who is at least eighteen years of age, but not more than twenty-four years of age, who was a dependent of the department of social and health services at the time he or she attained the age of eighteen.

**Sec. 5.** RCW 28B.92.030 and 2004 c 275 s 35 are each amended to read as follows:

As used in this chapter:

(1) "Institution" or "institutions of higher education" means:

(a) Any public university, college, community college, or technical college operated by the state of Washington or any political subdivision thereof; or

(b) Any other university, college, school, or institute in the state of Washington offering instruction beyond the high school level which is a member institution of an accrediting association recognized by rule of the board for the purposes of this section: PROVIDED, That any institution, branch, extension or facility operating within the state of Washington which is affiliated with an institution operating in another state must be a separately accredited member institution of any such accrediting association, or a branch of a member institution of an accrediting association recognized by rule of the board for purposes of this section, that is eligible for federal student financial aid assistance and has operated as a nonprofit college or university delivering on-site classroom instruction for a minimum of twenty consecutive years within the state of Washington, and has an annual enrollment of at least seven hundred full-time equivalent students: PROVIDED FURTHER, That no institution of higher education shall be eligible to participate in a student financial aid program unless it agrees to and complies with program rules and regulations adopted pursuant to RCW 28B.92.150.

(2) "Financial aid" means loans and/or grants to needy students enrolled or accepted for enrollment as a student at institutions of higher education.

(3) "Needy student" means a post high school student of an institution of higher education who demonstrates to the board the financial inability, either through the student's parents, family and/or personally, to meet the total cost of board, room, books, and tuition and incidental fees for any semester or quarter.

(4) "Disadvantaged student" means a post high school student who by reason of adverse cultural, educational, environmental, experiential, familial or other circumstances is unable to qualify for enrollment as a full time student in an institution of higher education, who would otherwise qualify as a needy student, and who is attending an institution of higher education under an established program designed to qualify the student for enrollment as a full time student.

(5) "Board" means the higher education coordinating board.

(6) "Placebound student" means a student who (a) is unable to complete a college program because of family or employment commitments, health concerns, monetary inability, or other similar factors; and (b) may be influenced by the receipt of an

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enhanced student financial aid award to complete a baccalaureate degree at an eligible institution.

**Sec. 6.** RCW 28B.15.0681 and 2007 c 151 s 2 are each amended to read as follows:

(1) In addition to the requirement in RCW 28B.76.300(4), institutions of higher education shall disclose to their undergraduate resident students on the tuition billing statement, in dollar figures for a full-time equivalent student:

~~((+))~~ (a) The full cost of instruction~~((,-(2)))~~;

~~((+))~~ (b) The amount collected from student tuition and fees~~((,-))~~; and

~~((+))~~ (c) The difference between the amounts for the full cost of instruction and the student tuition and fees~~((,-(noting)))~~

(2) The tuition billing statement shall note that the difference between the cost and tuition under subsection (1)(c) of this section was paid by state tax funds and other moneys.

(3) Beginning in the 2010-11 academic year, the amount determined in subsection (1)(c) of this section shall be labeled an "opportunity pathway" on the tuition billing statement.

(4) Beginning in the 2010-11 academic year, institutions of higher education shall label financial aid awarded to resident undergraduate students as an "opportunity pathway" on the tuition billing statement or financial aid award notification. Aid granted to students outside of the financial aid package provided through the institution of higher education and loans provided by the federal government are not subject to the labeling provisions in this subsection. All other aid from all sources including federal, state, and local governments, local communities, nonprofit and for-profit organizations, and institutions of higher education must be included. The disclosure requirements specified in this section do not change the source, award amount, student eligibility, or student obligations associated with each award. Institutions of higher education retain the ability to customize their tuition billing statements to inform students of the assistance source, amount, and type so long as provisions of this section are also fulfilled.

(5) The tuition billing statement disclosures shall be in twelve-point type and boldface type where appropriate.

**Sec. 7.** RCW 28B.76.500 and 1985 c 370 s 23 are each amended to read as follows:

(1) The board shall administer any state program or state-administered federal program of student financial aid now or hereafter established.

(2) Each of the student financial aid programs administered by the board shall be labeled an "opportunity pathway." Loans provided by the federal government and aid granted to students outside of the financial aid package provided through institutions of higher education are not subject to the labeling provisions in this subsection. All communication materials, including, but not limited to, printed materials, presentations, and web content, shall include the "opportunity pathway" label.

(3) If the board develops a one-stop college information web-based portal that includes financial, academic, and career planning information, the portal shall display all available student financial aid programs, except federal student loans and aid granted to students outside of the financial aid package provided through institutions of higher education, under the "opportunity pathway" label.

(4) The labeling requirements in this section do not change the source, eligibility requirements, or student obligations associated with each program. The board shall customize its communications to differentiate between programs, eligibility requirements, and student obligations, so long as the reporting provisions of this chapter are also fulfilled.

**NEW SECTION. Sec. 8.** A new section is added to chapter 28B.15 RCW to read as follows:

As used in this chapter, "dual credit program" means a program, administered by either an institution of higher education or a high school, through which high school students

in the eleventh or twelfth grade who have not yet received the credits required for the award of a high school diploma apply to a participating institution of higher education to enroll in courses or programs offered by the institution of higher education and simultaneously earn high school and college credit.

**Sec. 9.** RCW 28B.15.820 and 2007 c 404 s 4 are each amended to read as follows:

(1) Each institution of higher education, including technical colleges, shall deposit a minimum of three and one-half percent of revenues collected from tuition and services and activities fees in an institutional financial aid fund that is hereby created and which shall be held locally. Moneys in the fund shall be used only for the following purposes: (a) To make guaranteed long-term loans to eligible students as provided in subsections (3) through (8) of this section; (b) to make short-term loans as provided in subsection (9) of this section; ~~((or))~~ (c) to provide financial aid to needy students as provided in subsection (10) of this section; or (d) to provide financial aid to students as provided in subsection (11) of this section.

(2) An "eligible student" for the purposes of subsections (3) through (8) and (10) of this section is a student registered for at least three credit hours or the equivalent, who is eligible for resident tuition and fee rates as defined in RCW 28B.15.012 and 28B.15.013, and who is a "needy student" as defined in RCW 28B.92.030.

(3) The amount of the guaranteed long-term loans made under this section shall not exceed the demonstrated financial need of the student. Each institution shall establish loan terms and conditions which shall be consistent with the terms of the guaranteed loan program established by 20 U.S. Code Section 1071 et seq., as now or hereafter amended. All loans made shall be guaranteed by the Washington student loan guaranty association or its successor agency. Institutions are hereby granted full authority to operate as an eligible lender under the guaranteed loan program.

(4) Before approving a guaranteed long-term loan, each institution shall analyze the ability of the student to repay the loan based on factors which include, but are not limited to, the student's accumulated total education loan burdens and the employment opportunities and average starting salary characteristics of the student's chosen fields of study. The institution shall counsel the student on the advisability of acquiring additional debt, and on the availability of other forms of financial aid.

(5) Each institution is responsible for collection of guaranteed long-term loans made under this section and shall exercise due diligence in such collection, maintaining all necessary records to insure that maximum repayments are made. Institutions shall cooperate with other lenders and the Washington student loan guaranty association, or its successor agency, in the coordinated collection of guaranteed loans, and shall assure that the guarantability of the loans is not violated. Collection and servicing of guaranteed long-term loans under this section shall be performed by entities approved for such servicing by the Washington student loan guaranty association or its successor agency: PROVIDED, That institutions be permitted to perform such servicing if specifically recognized to do so by the Washington student loan guaranty association or its successor agency. Collection and servicing of guaranteed long-term loans made by community colleges under subsection (1) of this section shall be coordinated by the state board for community and technical colleges and shall be conducted under procedures adopted by the state board.

(6) Receipts from payment of interest or principal or any other subsidies to which institutions as lenders are entitled, that are paid by or on behalf of borrowers of funds under subsections (3) through (8) of this section, shall be deposited in each institution's financial aid fund and shall be used to cover the

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costs of making the guaranteed long-term loans under this section and maintaining necessary records and making collections under subsection (5) of this section: PROVIDED, That such costs shall not exceed five percent of aggregate outstanding loan principal. Institutions shall maintain accurate records of such costs, and all receipts beyond those necessary to pay such costs, shall be deposited in the institution's financial aid fund.

(7) The governing boards of the state universities, the regional universities, and The Evergreen State College, and the state board for community and technical colleges, on behalf of the community colleges and technical colleges, shall each adopt necessary rules and regulations to implement this section.

(8) First priority for any guaranteed long-term loans made under this section shall be directed toward students who would not normally have access to educational loans from private financial institutions in Washington state, and maximum use shall be made of secondary markets in the support of loan consolidation.

(9) Short-term loans, not to exceed one year, may be made from the institutional financial aid fund to students enrolled in the institution. No such loan shall be made to any student who is known by the institution to be in default or delinquent in the payment of any outstanding student loan. A short-term loan may be made only if the institution has ample evidence that the student has the capability of repaying the loan within the time frame specified by the institution for repayment.

(10) Any moneys deposited in the institutional financial aid fund that are not used in making long-term or short-term loans may be used by the institution for locally administered financial aid programs for needy students, such as need-based institutional employment programs or need-based tuition and fee scholarship or grant programs. These funds shall be used in addition to and not to replace institutional funds that would otherwise support these locally administered financial aid programs. First priority in the use of these funds shall be given to needy students who have accumulated excessive educational loan burdens. An excessive educational loan burden is a burden that will be difficult to repay given employment opportunities and average starting salaries in the student's chosen fields of study. Second priority in the use of these funds shall be given to needy single parents, to assist these students with their educational expenses, including expenses associated with child care and transportation.

(11) Any moneys deposited in the institutional financial aid fund may be used by the institution for a locally administered financial aid program for high school students enrolled in dual credit programs. If institutions use funds in this manner, the governing boards of the state universities, the regional universities, The Evergreen State College, and the state board for community and technical colleges shall each adopt necessary rules to implement this subsection. Moneys from this fund may be used for all educational expenses related to a student's participation in a dual credit program including but not limited to tuition, fees, course materials, and transportation.

**NEW SECTION. Sec. 10.** A new section is added to chapter 28B.92 RCW to read as follows:

Institutions of higher education are encouraged to review their policies and procedures regarding financial aid for students enrolled in dual credit programs as defined in section 8 of this act. Institutions of higher education are further encouraged to implement policies and procedures providing students enrolled in dual credit programs with the same access to institutional aid, including all educational expenses, as provided to resident undergraduate students.

**Sec. 11.** RCW 28B.12.060 and 2005 c 93 s 4 are each amended to read as follows:

The higher education coordinating board shall adopt rules as may be necessary or appropriate for effecting the provisions of

this chapter, and not in conflict with this chapter, in accordance with the provisions of chapter 34.05 RCW, the state higher education administrative procedure act. Such rules shall include provisions designed to make employment under the work-study program reasonably available, to the extent of available funds, to all eligible needy students in eligible post-secondary institutions ~~(in need thereof)~~. The rules shall include:

(1) Providing work under the state work-study program that will not result in the displacement of employed workers or impair existing contracts for services;

(2) Furnishing work only to a student who:

(a) Is capable, in the opinion of the eligible institution, of maintaining good standing in such course of study while employed under the program covered by the agreement; and

(b) Has been accepted for enrollment as at least a half-time student at the eligible institution or, in the case of a student already enrolled in and attending the eligible institution, is in good standing and in at least half-time attendance there either as an undergraduate, graduate or professional student; and

(c) Is not pursuing a degree in theology;

(3) Placing priority on providing:

(a) Work opportunities for students who are residents of the state of Washington as defined in RCW 28B.15.012 and 28B.15.013, particularly former foster youth as defined in RCW 28B.92.060 ~~(, except resident students defined in RCW 28B.15.012(2)(g))~~;

(b) Job placements in fields related to each student's academic or vocational pursuits, with an emphasis on off-campus job placements whenever appropriate; and

(c) Off-campus community service placements;

(4) To the extent practicable, limiting the proportion of state subsidy expended upon nonresident students to fifteen percent, or such less amount as specified in the biennial appropriations act;

(5) Provisions to assure that in the state institutions of higher education, utilization of this work-study program:

(a) Shall only supplement and not supplant classified positions under jurisdiction of chapter 41.06 RCW;

(b) That all positions established which are comparable shall be identified to a job classification under the director of personnel's classification plan and shall receive equal compensation;

(c) Shall not take place in any manner that would replace classified positions reduced due to lack of funds or work; and

(d) That work study positions shall only be established at entry level positions of the classified service unless the overall scope and responsibilities of the position indicate a higher level; and

~~((5))~~ (6) Provisions to encourage job placements in occupations that meet Washington's economic development goals, especially those in international trade and international relations. The board shall permit appropriate job placements in other states and other countries.

**NEW SECTION. Sec. 12.** A new section is added to chapter 28B.12 RCW to read as follows:

(1) Within existing resources, the higher education coordinating board shall establish the work-study opportunity grant for high-demand occupations, a competitive grant program to encourage job placements in high-demand fields. The board shall award grants to eligible institutions of higher education that have developed a partnership with a proximate organization willing to host work-study placements. Partner organizations may be nonprofit organizations, for-profit firms, or public agencies. Eligible institutions of higher education must verify that all job placements will last for a minimum of one academic quarter or one academic semester, depending on the system used by the eligible institution of higher education.

(2) The board may adopt rules to identify high-demand fields for purposes of this section. The legislature recognizes

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that the high-demand fields identified by the board may differ in different regions of the state.

(3) The board may award grants to eligible institutions of higher education that cover both student wages and program administration.

(4) The board shall develop performance benchmarks regarding program success including, but not limited to, the number of students served, the amount of employer contributions, and the number of participating high-demand employers.

**NEW SECTION. Sec. 13.** (1) The Washington higher education loan program is created. The program is created to assist students in need of additional low-cost student loans and related loan benefits.

(2) The program shall be administered by the board. In administering the program, the board must:

(a) Periodically assess the needs and target the benefits to selected students;

(b) Devise a program to address the following issues related to loans:

- (i) Issuance of low-interest educational loans;
- (ii) Determining loan repayment obligations and options;
- (iii) Borrowing educational loans at low interest rates;
- (iv) Developing conditional loans that can be forgiven in exchange for service; and

(v) Creating an emergency loan fund to help students until other state and federal long-term financing can be secured;

(c) Accept public and private contributions;

(d) Publicize the program; and

(e) Work with public and private colleges and universities, the state board for community and technical colleges, the workforce training and education coordinating board, and with students, to conduct periodic assessment of program needs. The board may also consult with other groups and individuals as needed.

**NEW SECTION. Sec. 14.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Board" means the higher education coordinating board.

(2) "Institution of higher education" means a college or university in the state of Washington that is accredited by an accrediting association recognized as such by rule of the board.

(3) "Program" means the Washington higher education loan program.

(4) "Resident student" has the definition in RCW 28B.15.012(2) (a) through (d).

**NEW SECTION. Sec. 15.** The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective August 1, 2011:

(1) RCW 28B.101.005 (Finding--Intent) and 2003 c 233 s 1 & 1990 c 288 s 2;

(2) RCW 28B.101.010 (Program created) and 2003 c 233 s 2 & 1990 c 288 s 3;

(3) RCW 28B.101.020 (Definition--Eligibility) and 2004 c 275 s 67, 2003 c 233 s 3, & 1990 c 288 s 4;

(4) RCW 28B.101.030 (Administration of program--Payments to participants) and 1990 c 288 s 5; and

(5) RCW 28B.101.040 (Use of grants) and 2003 c 233 s 4 & 2002 c 186 s 3.

**NEW SECTION. Sec. 16.** Sections 13 and 14 of this act constitute a new chapter in Title 28B RCW.

**NEW SECTION. Sec. 17.** This act takes effect August 1, 2009."

#### MOTION

Senator Kilmer moved that the following amendment by

Senators Kilmer and Becker to the committee striking amendment be adopted.

On page 6, line 12 of the amendment, after "~~noting~~)" insert ":

On page 6, after line 36 of the amendment, insert the following:

"(6) All tuition billing statements or financial aid award notifications at institutions of higher education must notify resident undergraduate students of federal tax credits related to higher education for which they may be eligible."

On page 7, line 19 of the amendment, after "label." insert "The portal shall also display information regarding federal tax credits related to higher education available for students or their families."

Senator Kilmer spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Kilmer and Becker on page 6, line 12 to the committee striking amendment to Engrossed Second Substitute House Bill No. 2021.

The motion by Senator Kilmer carried and the amendment to the committee striking amendment was adopted by voice vote.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Higher Education & Workforce Development as amended to Engrossed Second Substitute House Bill No. 2021.

The motion by Senator Kilmer carried and the committee striking amendment as amended was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "aid;" strike the remainder of the title and insert "amending RCW 28B.92.060, 28B.92.030, 28B.15.0681, 28B.76.500, 28B.15.820, and 28B.12.060; adding a new section to chapter 28B.101 RCW; adding new sections to chapter 28B.92 RCW; adding a new section to chapter 28B.15 RCW; adding a new section to chapter 28B.12 RCW; adding a new chapter to Title 28B RCW; creating a new section; repealing RCW 28B.101.005, 28B.101.010, 28B.101.020, 28B.101.030, and 28B.101.040; providing effective dates; and providing an expiration date."

#### MOTION

On motion of Senator King, the rules were suspended, Engrossed Second Substitute House Bill No. 2021 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kilmer and Becker spoke in favor of passage of the bill.

#### MOTION

On motion of Senator Marr, Senator Oemig was excused.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 2021 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 2021 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 38; Nays, 9; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland,

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Brown, Delvin, Eide, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridmore, Regala, Rockefeller, Sheldon, Shin, Stevens, Swecker and Tom

Voting nay: Senators Carrell, Hewitt, Holmquist, Honeyford, King, Pflug, Roach, Schoesler and Zarelli

Excused: Senators Fairley and Ranker

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2021 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

HOUSE BILL NO. 1589, by Representatives Green, Dickerson and O'Brien

Addressing venue for hearings to modify or revoke an order for conditional release.

The measure was read the second time.

## MOTION

Senator Regala moved that the following committee striking amendment by the Committee on Human Services & Corrections be adopted.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 71.05.340 and 2000 c 94 s 8 are each amended to read as follows:

(1)(a) When, in the opinion of the superintendent or the professional person in charge of the hospital or facility providing involuntary treatment, the committed person can be appropriately served by outpatient treatment prior to or at the expiration of the period of commitment, then such outpatient care may be required as a term of conditional release for a period which, when added to the inpatient treatment period, shall not exceed the period of commitment. If the hospital or facility designated to provide outpatient treatment is other than the facility providing involuntary treatment, the outpatient facility so designated must agree in writing to assume such responsibility. A copy of the terms of conditional release shall be given to the patient, the ((county)) designated mental health professional in the county in which the patient is to receive outpatient treatment, and to the court of original commitment.

(b) Before a person committed under grounds set forth in RCW 71.05.280(3) or 71.05.320((2)) (3)(c) is conditionally released under (a) of this subsection, the superintendent or professional person in charge of the hospital or facility providing involuntary treatment shall in writing notify the prosecuting attorney of the county in which the criminal charges against the committed person were dismissed, of the decision to conditionally release the person. Notice and a copy of the terms of conditional release shall be provided at least thirty days before the person is released from inpatient care. Within twenty days after receiving notice, the prosecuting attorney may petition the court in the county that issued the commitment order to hold a hearing to determine whether the person may be conditionally released and the terms of the conditional release. The prosecuting attorney shall provide a copy of the petition to the superintendent or professional person in charge of the hospital or facility providing involuntary treatment, the attorney, if any, and guardian or conservator of the committed person, and the court of original commitment. If the county in which the

committed person is to receive outpatient treatment is the same county in which the criminal charges against the committed person were dismissed, then the court shall, upon the motion of the prosecuting attorney, transfer the proceeding to the court in that county. The court shall conduct a hearing on the petition within ten days of the filing of the petition. The committed person shall have the same rights with respect to notice, hearing, and counsel as for an involuntary treatment proceeding, except as set forth in this subsection and except that there shall be no right to jury trial. The issue to be determined at the hearing is whether or not the person may be conditionally released without substantial danger to other persons, or substantial likelihood of committing criminal acts jeopardizing public safety or security. If the court disapproves of the conditional release, it may do so only on the basis of substantial evidence. Pursuant to the determination of the court upon the hearing, the conditional release of the person shall be approved by the court on the same or modified conditions or the person shall be returned for involuntary treatment on an inpatient basis subject to release at the end of the period for which he or she was committed, or otherwise in accordance with the provisions of this chapter.

(2) The hospital or facility designated to provide outpatient care or the secretary may modify the conditions for continued release when such modification is in the best interest of the person. Notification of such changes shall be sent to all persons receiving a copy of the original conditions.

(3)(a) If the hospital or facility designated to provide outpatient care, the ((county)) designated mental health professional, or the secretary determines that:

(i) A conditionally released person is failing to adhere to the terms and conditions of his or her release;

(ii) Substantial deterioration in a conditionally released person's functioning has occurred;

(iii) There is evidence of substantial decompensation with a reasonable probability that the decompensation can be reversed by further inpatient treatment; or

(iv) The person poses a likelihood of serious harm.

Upon notification by the hospital or facility designated to provide outpatient care, or on his or her own motion, the ((county)) designated mental health professional or the secretary may order that the conditionally released person be apprehended and taken into custody and temporarily detained in an evaluation and treatment facility in or near the county in which he or she is receiving outpatient treatment.

(b) The hospital or facility designated to provide outpatient treatment shall notify the secretary or ((county)) designated mental health professional when a conditionally released person fails to adhere to terms and conditions of his or her conditional release or experiences substantial deterioration in his or her condition and, as a result, presents an increased likelihood of serious harm. The ((county)) designated mental health professional or secretary shall order the person apprehended and temporarily detained in an evaluation and treatment facility in or near the county in which he or she is receiving outpatient treatment.

(c) A person detained under this subsection (3) shall be held until such time, not exceeding five days, as a hearing can be scheduled to determine whether or not the person should be returned to the hospital or facility from which he or she had been conditionally released. The ((county)) designated mental health professional or the secretary may modify or rescind such order at any time prior to commencement of the court hearing.

(d) The court that originally ordered commitment shall be notified within two judicial days of a person's detention under the provisions of this section, and the ((county)) designated mental health professional or the secretary shall file his or her petition and order of apprehension and detention with the court that originally ordered commitment or with the court in the county in which the person is detained and serve them upon the

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person detained. His or her attorney, if any, and his or her guardian or conservator, if any, shall receive a copy of such papers as soon as possible. Such person shall have the same rights with respect to notice, hearing, and counsel as for an involuntary treatment proceeding, except as specifically set forth in this section and except that there shall be no right to jury trial. The venue for proceedings regarding a petition for modification or revocation of an order for conditional release shall be in the county in which the petition was filed. The issues to be determined shall be: (i) Whether the conditionally released person did or did not adhere to the terms and conditions of his or her conditional release; (ii) that substantial deterioration in the person's functioning has occurred; (iii) there is evidence of substantial decompensation with a reasonable probability that the decompensation can be reversed by further inpatient treatment; or (iv) there is a likelihood of serious harm; and, if any of the conditions listed in this subsection (3)(d) have occurred, whether the terms of conditional release should be modified or the person should be returned to the facility.

(e) Pursuant to the determination of the court upon such hearing, the conditionally released person shall either continue to be conditionally released on the same or modified conditions or shall be returned for involuntary treatment on an inpatient basis subject to release at the end of the period for which he or she was committed for involuntary treatment, or otherwise in accordance with the provisions of this chapter. Such hearing may be waived by the person and his or her counsel and his or her guardian or conservator, if any, but shall not be waivable unless all such persons agree to waive, and upon such waiver the person may be returned for involuntary treatment or continued on conditional release on the same or modified conditions.

(4) The proceedings set forth in subsection (3) of this section may be initiated by the ((county)) designated mental health professional or the secretary on the same basis set forth therein without requiring or ordering the apprehension and detention of the conditionally released person, in which case the court hearing shall take place in not less than five days from the date of service of the petition upon the conditionally released person. The petition may be filed in the court that originally ordered commitment or with the court in the county in which the person is present. The venue for the proceedings regarding the petition for modification or revocation of an order for conditional release shall be in the county in which the petition was filed.

Upon expiration of the period of commitment, or when the person is released from outpatient care, notice in writing to the court which committed the person for treatment shall be provided.

(5) The grounds and procedures for revocation of less restrictive alternative treatment shall be the same as those set forth in this section for conditional releases.

(6) In the event of a revocation of a conditional release, the subsequent treatment period may be for no longer than the actual period authorized in the original court order."

Senator Regala spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Human Services & Corrections to House Bill No. 1589.

The motion by Senator Regala carried and the committee striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "release;" strike the remainder of the title and insert "and amending RCW 71.05.340."

#### MOTION

On motion of Senator Regala, the rules were suspended, House Bill No. 1589 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Regala and Stevens spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1589 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1589 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Fairley and Ranker

HOUSE BILL NO. 1589 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 1791, by House Committee on Human Services (originally sponsored by Representatives Dickerson, O'Brien, Hurst, Green, Dammeier, Morrell, Orwall, Walsh and Wood)

Clarifying certain community custody and drug offender sentencing alternative sentencing provisions.

The measure was read the second time.

#### MOTION

Senator Regala moved that the following committee striking amendment by the Committee on Human Services & Corrections be not adopted.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 9.94A.505 and 2008 c 231 s 25 are each amended to read as follows:

(1) When a person is convicted of a felony, the court shall impose punishment as provided in this chapter.

(2)(a) The court shall impose a sentence as provided in the following sections and as applicable in the case:

(i) Unless another term of confinement applies, a sentence within the standard sentence range established in RCW 9.94A.510 or 9.94A.517;

(ii) RCW 9.94A.701 and 9.94A.702, relating to community custody;

(iii) RCW 9.94A.570, relating to persistent offenders;

(iv) RCW 9.94A.540, relating to mandatory minimum terms;

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(v) RCW 9.94A.650, relating to the first-time offender waiver;

(vi) RCW 9.94A.660, relating to the drug offender sentencing alternative;

(vii) RCW 9.94A.670, relating to the special sex offender sentencing alternative;

(viii) RCW ~~((9.94A.712))~~ 9.94A.507, relating to certain sex offenses;

(ix) RCW 9.94A.535, relating to exceptional sentences;

(x) RCW 9.94A.589, relating to consecutive and concurrent sentences;

(xi) RCW 9.94A.603, relating to felony driving while under the influence of intoxicating liquor or any drug and felony physical control of a vehicle while under the influence of intoxicating liquor or any drug.

(b) If a standard sentence range has not been established for the offender's crime, the court shall impose a determinate sentence which may include not more than one year of confinement; community restitution work; a term of community custody under RCW 9.94A.702 not to exceed one year; and/or other legal financial obligations. The court may impose a sentence which provides more than one year of confinement and a community custody term under RCW 9.94A.701 if the court finds reasons justifying an exceptional sentence as provided in RCW 9.94A.535.

(3) If the court imposes a sentence requiring confinement of thirty days or less, the court may, in its discretion, specify that the sentence be served on consecutive or intermittent days. A sentence requiring more than thirty days of confinement shall be served on consecutive days. Local jail administrators may schedule court-ordered intermittent sentences as space permits.

(4) If a sentence imposed includes payment of a legal financial obligation, it shall be imposed as provided in RCW 9.94A.750, 9.94A.753, 9.94A.760, and 43.43.7541.

(5) Except as provided under RCW 9.94A.750(4) and 9.94A.753(4), a court may not impose a sentence providing for a term of confinement or community custody that exceeds the statutory maximum for the crime as provided in chapter 9A.20 RCW.

(6) The sentencing court shall give the offender credit for all confinement time served before the sentencing if that confinement was solely in regard to the offense for which the offender is being sentenced.

(7) The court shall order restitution as provided in RCW 9.94A.750 and 9.94A.753.

(8) As a part of any sentence, the court may impose and enforce crime-related prohibitions and affirmative conditions as provided in this chapter.

(9) In any sentence of partial confinement, the court may require the offender to serve the partial confinement in work release, in a program of home detention, on work crew, or in a combined program of work crew and home detention.

**Sec. 2.** RCW 9.94A.660 and 2006 c 339 s 302 and 2006 c 73 s 10 are each reenacted and amended to read as follows:

(1) An offender is eligible for the special drug offender sentencing alternative if:

(a) The offender is convicted of a felony that is not a violent offense or sex offense and the violation does not involve a sentence enhancement under RCW 9.94A.533 (3) or (4);

(b) The offender is convicted of a felony that is not a felony driving while under the influence of intoxicating liquor or any drug under RCW 46.61.502(6) or felony physical control of a vehicle while under the influence of intoxicating liquor or any drug under RCW 46.61.504(6);

(c) The offender has no current or prior convictions for a sex offense at any time or violent offense within ten years before conviction of the current offense, in this state, another state, or the United States;

(d) For a violation of the Uniform Controlled Substances Act under chapter 69.50 RCW or a criminal solicitation to commit such a violation under chapter 9A.28 RCW, the offense involved only a small quantity of the particular controlled substance as determined by the judge upon consideration of such factors as the weight, purity, packaging, sale price, and street value of the controlled substance;

(e) The offender has not been found by the United States attorney general to be subject to a deportation detainer or order and does not become subject to a deportation order during the period of the sentence;

(f) The end of the standard sentence range for the current offense is greater than one year; and

(g) The offender has not received a drug offender sentencing alternative more than once in the prior ten years before the current offense.

(2) A motion for a sentence under this section may be made by the court, the offender, or the state. ~~((If the sentencing court determines that the offender is eligible for this alternative, the court may order an examination of the offender. The examination shall, at a minimum, address the following issues:~~

~~—(a) Whether the offender suffers from drug addiction;~~

~~—(b) Whether the addiction is such that there is a probability that criminal behavior will occur in the future;~~

~~—(c) Whether effective treatment for the offender's addiction is available from a provider that has been licensed or certified by the division of alcohol and substance abuse of the department of social and health services; and~~

~~—(d) Whether the offender and the community will benefit from the use of the alternative.~~

~~—(3) The examination report must contain:~~

~~—(a) Information on the issues required to be addressed in subsection (2) of this section; and~~

~~—(b) A proposed treatment plan that must, at a minimum, contain:~~

~~—(i) A proposed treatment provider that has been licensed or certified by the division of alcohol and substance abuse of the department of social and health services;~~

~~—(ii) The recommended frequency and length of treatment, including both residential chemical dependency treatment and treatment in the community;~~

~~—(iii) A proposed monitoring plan, including any requirements regarding living conditions, lifestyle requirements, and monitoring by family members and others; and~~

~~—(iv) Recommended crime-related prohibitions and affirmative conditions.~~

~~—(4) After receipt of the examination report,)) (3) If the sentencing court determines that the offender is eligible for this alternative and that a sentence under this section is appropriate, the court shall waive imposition of a sentence within the standard sentence range and impose a sentence consisting of either a prison-based alternative under subsection ~~((5))~~ (4) of this section or a residential chemical dependency treatment-based alternative under subsection ~~((6))~~ (5) of this section. If the court is considering the residential chemical dependency treatment-based alternative under subsection (5) of this section, then the court may order an examination of the offender as described in subsection (5) of this section. If the court is considering the prison-based alternative under subsection (4) of this section, the court may order a presentence chemical dependency screening that will inform the court of the offender's likelihood to be chemically dependent. The residential chemical dependency treatment-based alternative is only available if the midpoint of the standard range is twenty-four months or less.~~

~~((5))~~ (4) The prison-based alternative shall include:

(a) A period of total confinement in a state facility for one-half of the midpoint of the standard sentence range or twelve months, whichever is greater. During incarceration in the state facility, offenders sentenced under this subsection shall undergo

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a comprehensive substance abuse assessment and receive, within available resources, treatment services appropriate for the offender. The treatment services shall be designed by the division of alcohol and substance abuse of the department of social and health services, in cooperation with the department of corrections;

(b) ~~((The remainder of))~~ One-half the midpoint of the standard range as a term of community custody which must include appropriate substance abuse treatment in a program that has been approved by the division of alcohol and substance abuse of the department of social and health services. If the department finds that conditions have been willfully violated, the offender may be reclassified to serve the remaining balance of the original sentence. An offender who fails to complete the program or who is administratively terminated from the program shall be reclassified to serve the unexpired term of his or her sentence as ordered by the sentencing court;

(c) Crime-related prohibitions including a condition not to use illegal controlled substances;

(d) A requirement to submit to urinalysis or other testing to monitor that status; and

(e) A term of community custody pursuant to RCW 9.94A.715 to be imposed upon failure to complete or administrative termination from the special drug offender sentencing alternative program.

~~((6))~~ (5)(a) If the court is considering imposing a sentence under the residential chemical dependency treatment-based alternative in this subsection, then the court may order an examination of the offender. The examination shall, at a minimum, address the following issues:

(i) Whether the offender suffers from drug addiction;

(ii) Whether the addiction is such that there is a probability that criminal behavior will occur in the future;

(iii) Whether effective treatment for the offender's addiction is available from a provider that has been licensed or certified by the division of alcohol and substance abuse of the department of social and health services; and

(iv) Whether the offender and the community will benefit from the use of the alternative.

(b) The examination report must also contain:

(i) A proposed monitoring plan, including any requirements regarding living conditions, lifestyle requirements, and monitoring by family members and others; and

(ii) Recommended crime-related prohibitions and affirmative conditions.

(c) The residential chemical dependency treatment-based alternative shall include:

~~((7))~~ (i) A term of community custody equal to one-half of the midpoint of the standard sentence range or two years, whichever is greater, conditioned on the offender entering and remaining in residential chemical dependency treatment certified under chapter 70.96A RCW for a period set by the court between three and six months. If the court imposes a term of community custody, the department shall, within available resources, make chemical dependency assessment and treatment services available to the offender during the term of community custody. The court shall impose, as conditions of community custody, treatment and other conditions as proposed in the plan under ~~((subsection (3)))~~(b) of this ~~((section))~~ subsection. The department may impose conditions and sanctions as authorized in RCW 9.94A.715 (2), (3), (6), and (7), 9.94A.737, and 9.94A.740. If the court imposes a sentence under this subsection, then the treatment provider will be required to send the treatment plan to the court within thirty days of the offender's arrival to the residential chemical dependency treatment program. The court shall schedule a progress hearing during the period of residential chemical dependency treatment, and schedule a treatment termination hearing for three months before the expiration of the term of community custody;

~~((7))~~ (ii) Before the progress hearing and treatment termination hearing, the treatment provider and the department shall submit written reports to the court and parties regarding the offender's compliance with treatment and monitoring requirements, and recommendations regarding termination from treatment. At the hearing, the court may:

~~((7))~~ (A) Authorize the department to terminate the offender's community custody status on the expiration date determined under ~~((a) of this)~~ subsection (5)(c)(i) of this section; or

~~((7))~~ (B) Continue the hearing to a date before the expiration date of community custody, with or without modifying the conditions of community custody; or

~~((7))~~ (C) Impose a term of total confinement equal to one-half the midpoint of the standard sentence range, followed by a term of community custody under RCW 9.94A.715;

~~((7))~~ (iii) If the court imposes a term of total confinement under ~~((b)(iii))~~ (c)(ii) of this subsection, the department shall, within available resources, make chemical dependency assessment and treatment services available to the offender during the terms of total confinement and community custody.

~~((7))~~ (6) If the court imposes a sentence under this section, the court may prohibit the offender from using alcohol or controlled substances and may require that the monitoring for controlled substances be conducted by the department or by a treatment alternatives to street crime program or a comparable court or agency-referred program. The offender may be required to pay thirty dollars per month while on community custody to offset the cost of monitoring. In addition, the court may impose any of the following conditions:

(a) Devote time to a specific employment or training;

(b) Remain within prescribed geographical boundaries and notify the court or the community corrections officer before any change in the offender's address or employment;

(c) Report as directed to a community corrections officer;

(d) Pay all court-ordered legal financial obligations;

(e) Perform community restitution work;

(f) Stay out of areas designated by the sentencing court;

(g) Such other conditions as the court may require such as affirmative conditions.

~~((8))~~ (7)(a) The court may bring any offender sentenced under this section back into court at any time on its own initiative to evaluate the offender's progress in treatment or to determine if any violations of the conditions of the sentence have occurred.

(b) If the offender is brought back to court, the court may modify the terms of the community custody or impose sanctions under (c) of this subsection.

(c) The court may order the offender to serve a term of total confinement within the standard range of the offender's current offense at any time during the period of community custody if the offender violates the conditions of the sentence or if the offender is failing to make satisfactory progress in treatment.

(d) An offender ordered to serve a term of total confinement under (c) of this subsection shall receive credit for any time previously served under this section.

~~((9))~~ (8) If an offender sentenced to the prison-based alternative under subsection ~~((5))~~ (4) of this section is found by the United States attorney general to be subject to a deportation order, a hearing shall be held by the department unless waived by the offender, and, if the department finds that the offender is subject to a valid deportation order, the department may administratively terminate the offender from the program and reclassify the offender to serve the remaining balance of the original sentence.

~~((10))~~ (9) An offender sentenced under this section shall be subject to all rules relating to earned release time with respect to any period served in total confinement.



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~~((H))~~ (10) Costs of examinations and preparing treatment plans under ~~((subsections (2) and (3) of))~~ this section may be paid, at the option of the county, from funds provided to the county from the criminal justice treatment account under RCW 70.96A.350.

Sec. 3. RCW 9.94A.660 and 2008 c 231 s 30 are each amended to read as follows:

(1) An offender is eligible for the special drug offender sentencing alternative if:

(a) The offender is convicted of a felony that is not a violent offense or sex offense and the violation does not involve a sentence enhancement under RCW 9.94A.533 (3) or (4);

(b) The offender is convicted of a felony that is not a felony driving while under the influence of intoxicating liquor or any drug under RCW 46.61.502(6) or felony physical control of a vehicle while under the influence of intoxicating liquor or any drug under RCW 46.61.504(6);

(c) The offender has no current or prior convictions for a sex offense at any time or violent offense within ten years before conviction of the current offense, in this state, another state, or the United States;

(d) For a violation of the Uniform Controlled Substances Act under chapter 69.50 RCW or a criminal solicitation to commit such a violation under chapter 9A.28 RCW, the offense involved only a small quantity of the particular controlled substance as determined by the judge upon consideration of such factors as the weight, purity, packaging, sale price, and street value of the controlled substance;

(e) The offender has not been found by the United States attorney general to be subject to a deportation detainer or order and does not become subject to a deportation order during the period of the sentence;

(f) The end of the standard sentence range for the current offense is greater than one year; and

(g) The offender has not received a drug offender sentencing alternative more than once in the prior ten years before the current offense.

(2) A motion for a ~~((sentence under this section))~~ special drug offender sentencing alternative may be made by the court, the offender, or the state.

(3) If the sentencing court determines that the offender is eligible for ~~((this))~~ an alternative sentence under this section and that the alternative sentence is appropriate, the court shall waive imposition of a sentence within the standard sentence range and impose a sentence consisting of either a prison-based alternative under section 4 of this act or a residential chemical dependency treatment-based alternative under section 5 of this act. The residential chemical dependency treatment-based alternative is only available if the midpoint of the standard range is twenty-four months or less.

(4) If the court is considering the prison-based alternative under section 4 of this act, the court may order a presentence chemical dependency screening that will inform the court of the offender's likelihood to be chemically dependent.

(5)(a) If the court is considering imposing a sentence under the residential chemical dependency treatment-based alternative, the court may order an examination of the offender. The examination shall, at a minimum, address the following issues:

~~((a))~~ (i) Whether the offender suffers from drug addiction;

~~((b))~~ (ii) Whether the addiction is such that there is a probability that criminal behavior will occur in the future;

~~((c))~~ (iii) Whether effective treatment for the offender's addiction is available from a provider that has been licensed or certified by the division of alcohol and substance abuse of the department of social and health services; and

~~((d))~~ (iv) Whether the offender and the community will benefit from the use of the alternative.

~~((3))~~ (b) The examination report must contain:

~~((a))~~ Information on the issues required to be addressed in subsection (2) of this section; and

~~((b))~~ A proposed treatment plan that must, at a minimum, contain:

~~((i))~~ A proposed treatment provider that has been licensed or certified by the division of alcohol and substance abuse of the department of social and health services;

~~((ii))~~ The recommended frequency and length of treatment, including both residential chemical dependency treatment and treatment in the community;

~~((iii))~~ (i) A proposed monitoring plan, including any requirements regarding living conditions, lifestyle requirements, and monitoring by family members and others; and

~~((iv))~~ (ii) Recommended crime-related prohibitions and affirmative conditions.

~~((4))~~ After receipt of the examination report, if the court determines that a sentence under this section is appropriate, the court shall waive imposition of a sentence within the standard sentence range and impose a sentence consisting of either a prison-based alternative under subsection (5) of this section or a residential chemical dependency treatment-based alternative under subsection (6) of this section. The residential chemical dependency treatment-based alternative is only available if the midpoint of the standard range is twenty-four months or less.

~~((5))~~ The prison-based alternative shall include:

~~((a))~~ A period of total confinement in a state facility for one-half of the midpoint of the standard sentence range or twelve months, whichever is greater. During incarceration in the state facility, offenders sentenced under this subsection shall undergo a comprehensive substance abuse assessment and receive, within available resources, treatment services appropriate for the offender. The treatment services shall be designed by the division of alcohol and substance abuse of the department of social and health services, in cooperation with the department of corrections;

~~((b))~~ The remainder of the midpoint of the standard range as a term of community custody which must include appropriate substance abuse treatment in a program that has been approved by the division of alcohol and substance abuse of the department of social and health services. If the department finds that conditions of community custody have been willfully violated, the offender may be reclassified to serve the remaining balance of the original sentence. An offender who fails to complete the program or who is administratively terminated from the program shall be reclassified to serve the unexpired term of his or her sentence as ordered by the sentencing court;

~~((c))~~ Crime-related prohibitions including a condition not to use illegal controlled substances;

~~((d))~~ A requirement to submit to urinalysis or other testing to monitor that status; and

~~((e))~~ A term of community custody pursuant to RCW 9.94A.701 to be imposed upon failure to complete or administrative termination from the special drug offender sentencing alternative program.

~~((6))~~ The residential chemical dependency treatment-based alternative shall include:

~~((a))~~ A term of community custody equal to one-half of the midpoint of the standard sentence range or two years, whichever is greater, conditioned on the offender entering and remaining in residential chemical dependency treatment certified under chapter 70.96A RCW for a period set by the court between three and six months. If the court imposes a term of community custody, the department shall, within available resources, make chemical dependency assessment and treatment services available to the offender during the term of community custody. The court shall impose, as conditions of community custody, treatment and other conditions as proposed in the plan under subsection (3)(b) of this section. The court shall schedule a progress hearing during the period of residential chemical

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dependency treatment, and schedule a treatment termination hearing for three months before the expiration of the term of community custody;

~~—(b) Before the progress hearing and treatment termination hearing, the treatment provider and the department shall submit written reports to the court and parties regarding the offender's compliance with treatment and monitoring requirements, and recommendations regarding termination from treatment. At the hearing, the court may:~~

~~—(i) Authorize the department to terminate the offender's community custody status on the expiration date determined under (a) of this subsection; or~~

~~—(ii) Continue the hearing to a date before the expiration date of community custody, with or without modifying the conditions of community custody; or~~

~~—(iii) Impose a term of total confinement equal to one-half the midpoint of the standard sentence range, followed by a term of community custody under RCW 9.94A.701;~~

~~—(c) If the court imposes a term of total confinement under (b)(iii) of this subsection, the department shall, within available resources, make chemical dependency assessment and treatment services available to the offender during the terms of total confinement and community custody.~~

~~—(7) The)) (6) When a court imposes a sentence of community custody under this section:~~

~~(a) The court may impose conditions as provided in RCW 9.94A.703 and may impose other affirmative conditions as the court considers appropriate. In addition, an offender may be required to pay thirty dollars per month while on community custody to offset the cost of monitoring for alcohol or controlled substances.~~

~~((8) The court may impose any of the following conditions:~~

~~—(a) Pay all court-ordered legal financial obligations; or~~

~~—(b) Perform community restitution work.~~

~~—(9(a)) (b) The department may impose conditions and sanctions as authorized in RCW 9.94A.704 and RCW 9.94A.737.~~

~~(7)(a) The court may bring any offender sentenced under this section back into court at any time on its own initiative to evaluate the offender's progress in treatment or to determine if any violations of the conditions of the sentence have occurred.~~

~~(b) If the offender is brought back to court, the court may modify the conditions of the community custody or impose sanctions under (c) of this subsection.~~

~~(c) The court may order the offender to serve a term of total confinement within the standard range of the offender's current offense at any time during the period of community custody if the offender violates the conditions or requirements of the sentence or if the offender is failing to make satisfactory progress in treatment.~~

~~(d) An offender ordered to serve a term of total confinement under (c) of this subsection shall receive credit for any time previously served under this section.~~

~~((10)) (8) In serving a term of community custody imposed upon failure to complete, or administrative termination from, the special drug offender sentencing alternative program, the offender shall receive no credit for time served in community custody prior to termination of the offender's participation in the program.~~

~~((11) If an offender sentenced to the prison-based alternative under subsection (5) of this section is found by the United States attorney general to be subject to a deportation order, a hearing shall be held by the department unless waived by the offender, and, if the department finds that the offender is subject to a valid deportation order, the department may administratively terminate the offender from the program and reclassify the offender to serve the remaining balance of the original sentence.~~

~~—(12)) (9) An offender sentenced under this section shall be subject to all rules relating to earned release time with respect to any period served in total confinement.~~

~~((13)) (10) Costs of examinations and preparing treatment plans under ((subsections (2) and (3) of this section)) a special drug offender sentencing alternative may be paid, at the option of the county, from funds provided to the county from the criminal justice treatment account under RCW 70.96A.350.~~

**NEW SECTION. Sec. 4.** (1) A sentence for a prison-based special drug offender sentencing alternative shall include:

(a) A period of total confinement in a state facility for one-half the midpoint of the standard sentence range or twelve months, whichever is greater;

(b) One-half the midpoint of the standard sentence range as a term of community custody, which must include appropriate substance abuse treatment in a program that has been approved by the division of alcohol and substance abuse of the department of social and health services;

(c) Crime-related prohibitions, including a condition not to use illegal controlled substances;

(d) A requirement to submit to urinalysis or other testing to monitor that status; and

(e) A term of community custody pursuant to RCW 9.94A.701 to be imposed upon the failure to complete or administrative termination from the special drug offender sentencing alternative program.

(2) During incarceration in the state facility, offenders sentenced under this section shall undergo a comprehensive substance abuse assessment and receive, within available resources, treatment services appropriate for the offender. The treatment services shall be designed by the division of alcohol and substance abuse of the department of social and health services, in cooperation with the department of corrections.

(3) If the department finds that conditions of community custody have been willfully violated, the offender may be reclassified to serve the remaining balance of the original sentence. An offender who fails to complete the program or who is administratively terminated from the program shall be reclassified to serve the unexpired term of his or her sentence as ordered by the sentencing court.

(4) If an offender sentenced to the prison-based alternative under this section is found by the United States attorney general to be subject to a deportation order, a hearing shall be held by the department unless waived by the offender, and, if the department finds that the offender is subject to a valid deportation order, the department may administratively terminate the offender from the program and reclassify the offender to serve the remaining balance of the original sentence.

**NEW SECTION. Sec. 5.** (1) A sentence for a residential chemical dependency treatment-based alternative shall include a term of community custody equal to one-half the midpoint of the standard sentence range or two years, whichever is greater, conditioned on the offender entering and remaining in residential chemical dependency treatment certified under chapter 70.96A RCW for a period set by the court between three and six months.

(2)(a) The court shall impose, as conditions of community custody, treatment and other conditions as proposed in the examination report completed pursuant to RCW 9.94A.660.

(b) If the court imposes a term of community custody, the department shall, within available resources, make chemical dependency assessment and treatment services available to the offender during the term of community custody.

(3)(a) If the court imposes a sentence under this section, the treatment provider must send the treatment plan to the court within thirty days of the offender's arrival to the residential chemical dependency treatment program.

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(b) Upon receipt of the plan, the court shall schedule a progress hearing during the period of residential chemical dependency treatment, and schedule a treatment termination hearing for three months before the expiration of the term of community custody;

(c) Before the progress hearing and treatment termination hearing, the treatment provider and the department shall submit written reports to the court and parties regarding the offender's compliance with treatment and monitoring requirements, and recommendations regarding termination from treatment.

(4) At a progress hearing or treatment termination hearing, the court may:

(a) Authorize the department to terminate the offender's community custody status on the expiration date determined under subsection (1) of this section;

(b) Continue the hearing to a date before the expiration date of community custody, with or without modifying the conditions of community custody; or

(c) Impose a term of total confinement equal to one-half the midpoint of the standard sentence range, followed by a term of community custody under RCW 9.94A.701.

(5) If the court imposes a term of total confinement, the department shall, within available resources, make chemical dependency assessment and treatment services available to the offender during the term of total confinement and subsequent term of community custody.

**NEW SECTION. Sec. 6.** Sections 4 and 5 of this act are each added to chapter 9.94A RCW.

**NEW SECTION. Sec. 7.** Section 2 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.

**NEW SECTION. Sec. 8.** Sections 1 and 3 through 5 of this act take effect August 1, 2009.

**NEW SECTION. Sec. 9.** Section 2 of this act expires August 1, 2009."

On page 1, line 2 of the title, after "provisions;" strike the remainder of the title and insert "amending RCW 9.94A.505 and 9.94A.660; reenacting and amending RCW 9.94A.660; adding new sections to chapter 9.94A RCW; providing an effective date; providing an expiration date; and declaring an emergency."

The President declared the question before the Senate to be the motion by Senator Regala to not adopt the committee striking amendment by the Committee on Human Services & Corrections to Substitute House Bill No. 1791.

The motion by Senator Regala carried and the committee striking amendment was not adopted by voice vote.

#### MOTION

Senator Regala moved that the following striking amendment by Senator Regala be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 9.94A.505 and 2009 c 28 s 6 are each amended to read as follows:

(1) When a person is convicted of a felony, the court shall impose punishment as provided in this chapter.

(2)(a) The court shall impose a sentence as provided in the following sections and as applicable in the case:

(i) Unless another term of confinement applies, a sentence within the standard sentence range established in RCW 9.94A.510 or 9.94A.517;

(ii) RCW 9.94A.701 and 9.94A.702, relating to community custody;

(iii) RCW 9.94A.570, relating to persistent offenders;

(iv) RCW 9.94A.540, relating to mandatory minimum terms;

(v) RCW 9.94A.650, relating to the first-time offender waiver;

(vi) RCW 9.94A.660, relating to the drug offender sentencing alternative;

(vii) RCW 9.94A.670, relating to the special sex offender sentencing alternative;

(viii) RCW 9.94A.507, relating to certain sex offenses;

(ix) RCW 9.94A.535, relating to exceptional sentences;

(x) RCW 9.94A.589, relating to consecutive and concurrent sentences;

(xi) RCW 9.94A.603, relating to felony driving while under the influence of intoxicating liquor or any drug and felony physical control of a vehicle while under the influence of intoxicating liquor or any drug.

(b) If a standard sentence range has not been established for the offender's crime, the court shall impose a determinate sentence which may include not more than one year of confinement; community restitution work; a term of community custody under RCW 9.94A.702 not to exceed one year; and/or other legal financial obligations. The court may impose a sentence which provides more than one year of confinement and a community custody term under RCW 9.94A.701 if the court finds reasons justifying an exceptional sentence as provided in RCW 9.94A.535.

(3) If the court imposes a sentence requiring confinement of thirty days or less, the court may, in its discretion, specify that the sentence be served on consecutive or intermittent days. A sentence requiring more than thirty days of confinement shall be served on consecutive days. Local jail administrators may schedule court-ordered intermittent sentences as space permits.

(4) If a sentence imposed includes payment of a legal financial obligation, it shall be imposed as provided in RCW 9.94A.750, 9.94A.753, 9.94A.760, and 43.43.7541.

(5) Except as provided under RCW 9.94A.750(4) and 9.94A.753(4), a court may not impose a sentence providing for a term of confinement or community custody that exceeds the statutory maximum for the crime as provided in chapter 9A.20 RCW.

(6) The sentencing court shall give the offender credit for all confinement time served before the sentencing if that confinement was solely in regard to the offense for which the offender is being sentenced.

(7) The court shall order restitution as provided in RCW 9.94A.750 and 9.94A.753.

(8) As a part of any sentence, the court may impose and enforce crime-related prohibitions and affirmative conditions as provided in this chapter.

(9) In any sentence of partial confinement, the court may require the offender to serve the partial confinement in work release, in a program of home detention, on work crew, or in a combined program of work crew and home detention.

**Sec. 2.** RCW 9.94A.660 and 2006 c 339 s 302 and 2006 c 73 s 10 are each reenacted and amended to read as follows:

(1) An offender is eligible for the special drug offender sentencing alternative if:

(a) The offender is convicted of a felony that is not a violent offense or sex offense and the violation does not involve a sentence enhancement under RCW 9.94A.533 (3) or (4);

(b) The offender is convicted of a felony that is not a felony driving while under the influence of intoxicating liquor or any drug under RCW 46.61.502(6) or felony physical control of a vehicle while under the influence of intoxicating liquor or any drug under RCW 46.61.504(6);

(c) The offender has no current or prior convictions for a sex offense at any time or violent offense within ten years before conviction of the current offense, in this state, another state, or the United States;

(d) For a violation of the Uniform Controlled Substances Act under chapter 69.50 RCW or a criminal solicitation to commit such a violation under chapter 9A.28 RCW, the offense involved only a small quantity of the particular controlled substance as determined by the judge upon consideration of such factors as the weight, purity, packaging, sale price, and street value of the controlled substance;

(e) The offender has not been found by the United States attorney general to be subject to a deportation detainer or order

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and does not become subject to a deportation order during the period of the sentence;

(f) The end of the standard sentence range for the current offense is greater than one year; and

(g) The offender has not received a drug offender sentencing alternative more than once in the prior ten years before the current offense.

(2) A motion for a sentence under this section may be made by the court, the offender, or the state. ~~((If the sentencing court determines that the offender is eligible for this alternative, the court may order an examination of the offender. The examination shall, at a minimum, address the following issues:~~

~~—(a) Whether the offender suffers from drug addiction;~~

~~—(b) Whether the addiction is such that there is a probability that criminal behavior will occur in the future;~~

~~—(c) Whether effective treatment for the offender's addiction is available from a provider that has been licensed or certified by the division of alcohol and substance abuse of the department of social and health services; and~~

~~—(d) Whether the offender and the community will benefit from the use of the alternative.~~

~~—(3) The examination report must contain:~~

~~—(a) Information on the issues required to be addressed in subsection (2) of this section; and~~

~~—(b) A proposed treatment plan that must, at a minimum, contain:~~

~~—(i) A proposed treatment provider that has been licensed or certified by the division of alcohol and substance abuse of the department of social and health services;~~

~~—(ii) The recommended frequency and length of treatment, including both residential chemical dependency treatment and treatment in the community;~~

~~—(iii) A proposed monitoring plan, including any requirements regarding living conditions, lifestyle requirements, and monitoring by family members and others; and~~

~~—(iv) Recommended crime-related prohibitions and affirmative conditions.~~

~~—(4) After receipt of the examination report,)) (3) If the sentencing court determines that the offender is eligible for this alternative and that a sentence under this section is appropriate, the court shall waive imposition of a sentence within the standard sentence range and impose a sentence consisting of either a prison-based alternative under subsection ~~((5))~~ (4) of this section or a residential chemical dependency treatment-based alternative under subsection ~~((6))~~ (5) of this section. If the court is considering the residential chemical dependency treatment-based alternative under subsection (5) of this section, then the court may order an examination of the offender as described in subsection (5) of this section. To assist the court in making its determination, the court may order the department to complete either or both a risk assessment report and a chemical dependency screening report as provided in RCW 9.94A.500. The residential chemical dependency treatment-based alternative is only available if the midpoint of the standard range is twenty-four months or less.~~

~~((5))~~ (4) The prison-based alternative shall include:

(a) A period of total confinement in a state facility for one-half of the midpoint of the standard sentence range or twelve months, whichever is greater. During incarceration in the state facility, offenders sentenced under this subsection shall undergo a comprehensive substance abuse assessment and receive, within available resources, treatment services appropriate for the offender. The treatment services shall be designed by the division of alcohol and substance abuse of the department of social and health services, in cooperation with the department of corrections;

(b) ~~((The remainder of))~~ One-half the midpoint of the standard range as a term of community custody which must include appropriate substance abuse treatment in a program that has been approved by the division of alcohol and substance abuse of the department of social and health services. If the department finds that conditions have been willfully violated, the offender may be reclassified to serve the remaining balance of the original sentence. An offender who fails to complete the program or who is administratively terminated from the program

shall be reclassified to serve the unexpired term of his or her sentence as ordered by the sentencing court;

(c) Crime-related prohibitions including a condition not to use illegal controlled substances;

(d) A requirement to submit to urinalysis or other testing to monitor that status; and

(e) A term of community custody pursuant to RCW 9.94A.715 to be imposed upon failure to complete or administrative termination from the special drug offender sentencing alternative program.

~~((6))~~ (5)(a) If the court is considering imposing a sentence under the residential chemical dependency treatment-based alternative in this subsection, then the court may order an examination of the offender by the department. The examination shall, at a minimum, address the following issues:

~~(i) Whether the offender suffers from drug addiction;~~

~~(ii) Whether the addiction is such that there is a probability that criminal behavior will occur in the future;~~

~~(iii) Whether effective treatment for the offender's addiction is available from a provider that has been licensed or certified by the division of alcohol and substance abuse of the department of social and health services; and~~

~~(iv) Whether the offender and the community will benefit from the use of the alternative.~~

~~(b) The examination report must also contain:~~

~~(i) A proposed monitoring plan, including any requirements regarding living conditions, lifestyle requirements, and monitoring by family members and others; and~~

~~(ii) Recommended crime-related prohibitions and affirmative conditions.~~

~~(c) The residential chemical dependency treatment-based alternative shall include:~~

~~((a))~~ (i) A term of community custody equal to one-half of the midpoint of the standard sentence range or two years, whichever is greater, conditioned on the offender entering and remaining in residential chemical dependency treatment certified under chapter 70.96A RCW for a period set by the court between three and six months. If the court imposes a term of community custody, the department shall, within available resources, make chemical dependency assessment and treatment services available to the offender during the term of community custody. The court shall impose, as conditions of community custody, treatment and other conditions as proposed in the plan under ~~((subsection (3))~~(b) of this ~~(section))~~ subsection. The department may impose conditions and sanctions as authorized in RCW 9.94A.715 (2), (3), (6), and (7), 9.94A.737, and 9.94A.740. If the court imposes a sentence under this subsection, then the treatment provider will be required to send the treatment plan to the court within thirty days of the offender's arrival to the residential chemical dependency treatment program. The court shall schedule a progress hearing during the period of residential chemical dependency treatment, and schedule a treatment termination hearing for three months before the expiration of the term of community custody;

~~((b))~~ (ii) Before the progress hearing and treatment termination hearing, the treatment provider and the department shall submit written reports to the court and parties regarding the offender's compliance with treatment and monitoring requirements, and recommendations regarding termination from treatment. At the hearing, the court may:

~~((c))~~ (A) Authorize the department to terminate the offender's community custody status on the expiration date determined under ~~((a) of this))~~ subsection (5)(c)(i) of this section; or

~~((d))~~ (B) Continue the hearing to a date before the expiration date of community custody, with or without modifying the conditions of community custody; or

~~((e))~~ (C) Impose a term of total confinement equal to one-half the midpoint of the standard sentence range, followed by a term of community custody under RCW 9.94A.715;

~~((f))~~ (iii) If the court imposes a term of total confinement under ~~((b) or (c))~~ (c)(ii) of this subsection, the department shall, within available resources, make chemical dependency assessment and treatment services available to the offender during the terms of total confinement and community custody.

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~~((7))~~ (6) If the court imposes a sentence under this section, the court may prohibit the offender from using alcohol or controlled substances and may require that the monitoring for controlled substances be conducted by the department or by a treatment alternatives to street crime program or a comparable court or agency-referred program. The offender may be required to pay thirty dollars per month while on community custody to offset the cost of monitoring. In addition, the court may impose any of the following conditions:

- (a) Devote time to a specific employment or training;
- (b) Remain within prescribed geographical boundaries and notify the court or the community corrections officer before any change in the offender's address or employment;
- (c) Report as directed to a community corrections officer;
- (d) Pay all court-ordered legal financial obligations;
- (e) Perform community restitution work;
- (f) Stay out of areas designated by the sentencing court;
- (g) Such other conditions as the court may require such as affirmative conditions.

~~((8))~~ (7)(a) The court may bring any offender sentenced under this section back into court at any time on its own initiative to evaluate the offender's progress in treatment or to determine if any violations of the conditions of the sentence have occurred.

(b) If the offender is brought back to court, the court may modify the terms of the community custody or impose sanctions under (c) of this subsection.

(c) The court may order the offender to serve a term of total confinement within the standard range of the offender's current offense at any time during the period of community custody if the offender violates the conditions of the sentence or if the offender is failing to make satisfactory progress in treatment.

(d) An offender ordered to serve a term of total confinement under (c) of this subsection shall receive credit for any time previously served under this section.

~~((9))~~ (8) If an offender sentenced to the prison-based alternative under subsection ~~((5))~~ (4) of this section is found by the United States attorney general to be subject to a deportation order, a hearing shall be held by the department unless waived by the offender, and, if the department finds that the offender is subject to a valid deportation order, the department may administratively terminate the offender from the program and reclassify the offender to serve the remaining balance of the original sentence.

~~((10))~~ (9) An offender sentenced under this section shall be subject to all rules relating to earned release time with respect to any period served in total confinement.

~~((11))~~ (10) Costs of examinations and preparing treatment plans under ~~((subsections (2) and (3) of))~~ this section may be paid, at the option of the county, from funds provided to the county from the criminal justice treatment account under RCW 70.96A.350.

**Sec. 3.** RCW 9.94A.660 and 2008 c 231 s 30 are each amended to read as follows:

(1) An offender is eligible for the special drug offender sentencing alternative if:

(a) The offender is convicted of a felony that is not a violent offense or sex offense and the violation does not involve a sentence enhancement under RCW 9.94A.533 (3) or (4);

(b) The offender is convicted of a felony that is not a felony driving while under the influence of intoxicating liquor or any drug under RCW 46.61.502(6) or felony physical control of a vehicle while under the influence of intoxicating liquor or any drug under RCW 46.61.504(6);

(c) The offender has no current or prior convictions for a sex offense at any time or violent offense within ten years before conviction of the current offense, in this state, another state, or the United States;

(d) For a violation of the Uniform Controlled Substances Act under chapter 69.50 RCW or a criminal solicitation to commit such a violation under chapter 9A.28 RCW, the offense involved only a small quantity of the particular controlled substance as determined by the judge upon consideration of such factors as the weight, purity, packaging, sale price, and street value of the controlled substance;

(e) The offender has not been found by the United States attorney general to be subject to a deportation detainer or order and does not become subject to a deportation order during the period of the sentence;

(f) The end of the standard sentence range for the current offense is greater than one year; and

(g) The offender has not received a drug offender sentencing alternative more than once in the prior ten years before the current offense.

(2) A motion for a ~~((sentence under this section))~~ special drug offender sentencing alternative may be made by the court, the offender, or the state.

(3) If the sentencing court determines that the offender is eligible for ~~((this))~~ an alternative sentence under this section and that the alternative sentence is appropriate, the court shall waive imposition of a sentence within the standard sentence range and impose a sentence consisting of either a prison-based alternative under section 4 of this act or a residential chemical dependency treatment-based alternative under section 5 of this act. The residential chemical dependency treatment-based alternative is only available if the midpoint of the standard range is twenty-four months or less.

(4) To assist the court in making its determination, the court may order the department to complete either or both a risk assessment report and a chemical dependency screening report as provided in RCW 9.94A.500.

(5)(a) If the court is considering imposing a sentence under the residential chemical dependency treatment-based alternative, the court may order an examination of the offender by the department. The examination shall, at a minimum, address the following issues:

- ~~((a))~~ (i) Whether the offender suffers from drug addiction;
- ~~((b))~~ (ii) Whether the addiction is such that there is a probability that criminal behavior will occur in the future;
- ~~((c))~~ (iii) Whether effective treatment for the offender's addiction is available from a provider that has been licensed or certified by the division of alcohol and substance abuse of the department of social and health services; and
- ~~((d))~~ (iv) Whether the offender and the community will benefit from the use of the alternative.

~~((3))~~ (b) The examination report must contain:

~~((a))~~ Information on the issues required to be addressed in subsection (2) of this section; and

~~((b))~~ A proposed treatment plan that must, at a minimum, contain:

~~((i))~~ A proposed treatment provider that has been licensed or certified by the division of alcohol and substance abuse of the department of social and health services;

~~((ii))~~ The recommended frequency and length of treatment, including both residential chemical dependency treatment and treatment in the community;

~~((iii))~~ (i) A proposed monitoring plan, including any requirements regarding living conditions, lifestyle requirements, and monitoring by family members and others; and

~~((iv))~~ (ii) Recommended crime-related prohibitions and affirmative conditions.

~~((4))~~ After receipt of the examination report, if the court determines that a sentence under this section is appropriate, the court shall waive imposition of a sentence within the standard sentence range and impose a sentence consisting of either a prison-based alternative under subsection (5) of this section or a residential chemical dependency treatment-based alternative under subsection (6) of this section. The residential chemical dependency treatment-based alternative is only available if the midpoint of the standard range is twenty-four months or less.

~~((5))~~ The prison-based alternative shall include:

~~((a))~~ A period of total confinement in a state facility for one-half of the midpoint of the standard sentence range or twelve months, whichever is greater. During incarceration in the state facility, offenders sentenced under this subsection shall undergo a comprehensive substance abuse assessment and receive, within available resources, treatment services appropriate for the offender. The treatment services shall be designed by the division of alcohol and substance abuse of the department of

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social and health services, in cooperation with the department of corrections;

~~(b) The remainder of the midpoint of the standard range as a term of community custody which must include appropriate substance abuse treatment in a program that has been approved by the division of alcohol and substance abuse of the department of social and health services. If the department finds that conditions of community custody have been willfully violated, the offender may be reclassified to serve the remaining balance of the original sentence. An offender who fails to complete the program or who is administratively terminated from the program shall be reclassified to serve the unexpired term of his or her sentence as ordered by the sentencing court;~~

~~(c) Crime-related prohibitions including a condition not to use illegal controlled substances;~~

~~(d) A requirement to submit to urinalysis or other testing to monitor that status; and~~

~~(e) A term of community custody pursuant to RCW 9.94A.701 to be imposed upon failure to complete or administrative termination from the special drug offender sentencing alternative program.~~

~~(6) The residential chemical dependency treatment-based alternative shall include:~~

~~(a) A term of community custody equal to one-half of the midpoint of the standard sentence range or two years, whichever is greater, conditioned on the offender entering and remaining in residential chemical dependency treatment certified under chapter 70.96A RCW for a period set by the court between three and six months. If the court imposes a term of community custody, the department shall, within available resources, make chemical dependency assessment and treatment services available to the offender during the term of community custody. The court shall impose, as conditions of community custody, treatment and other conditions as proposed in the plan under subsection (3)(b) of this section. The court shall schedule a progress hearing during the period of residential chemical dependency treatment, and schedule a treatment termination hearing for three months before the expiration of the term of community custody;~~

~~(b) Before the progress hearing and treatment termination hearing, the treatment provider and the department shall submit written reports to the court and parties regarding the offender's compliance with treatment and monitoring requirements, and recommendations regarding termination from treatment. At the hearing, the court may:~~

~~(i) Authorize the department to terminate the offender's community custody status on the expiration date determined under (a) of this subsection; or~~

~~(ii) Continue the hearing to a date before the expiration date of community custody, with or without modifying the conditions of community custody; or~~

~~(iii) Impose a term of total confinement equal to one-half the midpoint of the standard sentence range, followed by a term of community custody under RCW 9.94A.701;~~

~~(c) If the court imposes a term of total confinement under (b)(iii) of this subsection, the department shall, within available resources, make chemical dependency assessment and treatment services available to the offender during the terms of total confinement and community custody.~~

~~(7) The)) (6) When a court imposes a sentence of community custody under this section:~~

~~(a) The court may impose conditions as provided in RCW 9.94A.703 and may impose other affirmative conditions as the court considers appropriate. In addition, an offender may be required to pay thirty dollars per month while on community custody to offset the cost of monitoring for alcohol or controlled substances.~~

~~((8) The court may impose any of the following conditions:~~

~~(a) Pay all court-ordered legal financial obligations; or~~

~~(b) Perform community restitution work.~~

~~(9(a)) (b) The department may impose conditions and sanctions as authorized in RCW 9.94A.704 and RCW 9.94A.737.~~

~~(7(a) The court may bring any offender sentenced under this section back into court at any time on its own initiative to~~

evaluate the offender's progress in treatment or to determine if any violations of the conditions of the sentence have occurred.

(b) If the offender is brought back to court, the court may modify the conditions of the community custody or impose sanctions under (c) of this subsection.

(c) The court may order the offender to serve a term of total confinement within the standard range of the offender's current offense at any time during the period of community custody if the offender violates the conditions or requirements of the sentence or if the offender is failing to make satisfactory progress in treatment.

(d) An offender ordered to serve a term of total confinement under (c) of this subsection shall receive credit for any time previously served under this section.

~~((10)) (8) In serving a term of community custody imposed upon failure to complete, or administrative termination from, the special drug offender sentencing alternative program, the offender shall receive no credit for time served in community custody prior to termination of the offender's participation in the program.~~

~~((11) If an offender sentenced to the prison-based alternative under subsection (5) of this section is found by the United States attorney general to be subject to a deportation order, a hearing shall be held by the department unless waived by the offender, and, if the department finds that the offender is subject to a valid deportation order, the department may administratively terminate the offender from the program and reclassify the offender to serve the remaining balance of the original sentence.~~

~~((12)) (9) An offender sentenced under this section shall be subject to all rules relating to earned release time with respect to any period served in total confinement.~~

~~((13)) (10) Costs of examinations and preparing treatment plans under ((subsections (2) and (3) of this section)) a special drug offender sentencing alternative may be paid, at the option of the county, from funds provided to the county from the criminal justice treatment account under RCW 70.96A.350.~~

NEW SECTION. Sec. 4. (1) A sentence for a prison-based special drug offender sentencing alternative shall include:

(a) A period of total confinement in a state facility for one-half the midpoint of the standard sentence range or twelve months, whichever is greater;

(b) One-half the midpoint of the standard sentence range as a term of community custody, which must include appropriate substance abuse treatment in a program that has been approved by the division of alcohol and substance abuse of the department of social and health services;

(c) Crime-related prohibitions, including a condition not to use illegal controlled substances;

(d) A requirement to submit to urinalysis or other testing to monitor that status; and

(e) A term of community custody pursuant to RCW 9.94A.701 to be imposed upon the failure to complete or administrative termination from the special drug offender sentencing alternative program.

(2) During incarceration in the state facility, offenders sentenced under this section shall undergo a comprehensive substance abuse assessment and receive, within available resources, treatment services appropriate for the offender. The treatment services shall be designed by the division of alcohol and substance abuse of the department of social and health services, in cooperation with the department of corrections.

(3) If the department finds that conditions of community custody have been willfully violated, the offender may be reclassified to serve the remaining balance of the original sentence. An offender who fails to complete the program or who is administratively terminated from the program shall be reclassified to serve the unexpired term of his or her sentence as ordered by the sentencing court.

(4) If an offender sentenced to the prison-based alternative under this section is found by the United States attorney general to be subject to a deportation order, a hearing shall be held by the department unless waived by the offender, and, if the department finds that the offender is subject to a valid deportation order, the department may administratively

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terminate the offender from the program and reclassify the offender to serve the remaining balance of the original sentence.

**NEW SECTION. Sec. 5.** (1) A sentence for a residential chemical dependency treatment-based alternative shall include a term of community custody equal to one-half the midpoint of the standard sentence range or two years, whichever is greater, conditioned on the offender entering and remaining in residential chemical dependency treatment certified under chapter 70.96A RCW for a period set by the court between three and six months.

(2)(a) The court shall impose, as conditions of community custody, treatment and other conditions as proposed in the examination report completed pursuant to RCW 9.94A.660.

(b) If the court imposes a term of community custody, the department shall, within available resources, make chemical dependency assessment and treatment services available to the offender during the term of community custody.

(3)(a) If the court imposes a sentence under this section, the treatment provider must send the treatment plan to the court within thirty days of the offender's arrival to the residential chemical dependency treatment program.

(b) Upon receipt of the plan, the court shall schedule a progress hearing during the period of residential chemical dependency treatment, and schedule a treatment termination hearing for three months before the expiration of the term of community custody;

(c) Before the progress hearing and treatment termination hearing, the treatment provider and the department shall submit written reports to the court and parties regarding the offender's compliance with treatment and monitoring requirements, and recommendations regarding termination from treatment.

(4) At a progress hearing or treatment termination hearing, the court may:

(a) Authorize the department to terminate the offender's community custody status on the expiration date determined under subsection (1) of this section;

(b) Continue the hearing to a date before the expiration date of community custody, with or without modifying the conditions of community custody; or

(c) Impose a term of total confinement equal to one-half the midpoint of the standard sentence range, followed by a term of community custody under RCW 9.94A.701.

(5) If the court imposes a term of total confinement, the department shall, within available resources, make chemical dependency assessment and treatment services available to the offender during the term of total confinement and subsequent term of community custody.

**NEW SECTION. Sec. 6.** Sections 4 and 5 of this act are each added to chapter 9.94A RCW.

**NEW SECTION. Sec. 7.** Section 2 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.

**NEW SECTION. Sec. 8.** Sections 1 and 3 through 5 of this act take effect August 1, 2009.

**NEW SECTION. Sec. 9.** Section 2 of this act expires August 1, 2009."

Senator Regala spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Regala to Substitute House Bill No. 1791.

The motion by Senator Regala carried and the striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "provisions;" strike the remainder of the title and insert "amending RCW 9.94A.505 and 9.94A.660; reenacting and amending RCW 9.94A.660; adding new sections to chapter 9.94A RCW; providing an effective date; providing an expiration date; and declaring an emergency."

#### MOTION

On motion of Senator Regala, the rules were suspended, Substitute House Bill No. 1791 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Regala and Swecker spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1791 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1791 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Fairley and Ranker

SUBSTITUTE HOUSE BILL NO. 1791 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

At 5:28 p.m., on motion of Senator Eide, the Senate adjourned until 9:00 a.m. Wednesday, April 15, 2009.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

1021-S2	Second Reading. . . . .	39, 72	Messages. . . . .	5
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1138-S	Other Action. . . . .	74	Other Action. . . . .	79
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1184	Other Action. . . . .	3	2105-S	
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1264	Second Reading. . . . .	26	2116-S	
	Third Reading Final Passage. . . . .	26	Other Action. . . . .	36
1300-S	Second Reading. . . . .	80	Second Reading. . . . .	32, 34, 36
1326-S	Other Action. . . . .	4	Third Reading Final Passage. . . . .	36
	Second Reading. . . . .	3	2222-S	
	Third Reading Final Passage. . . . .	4	Other Action. . . . .	39
1379-S	Other Action. . . . .	26	Second Reading. . . . .	37, 38
	Second Reading. . . . .	22, 23, 25	Third Reading Final Passage. . . . .	39
	Third Reading Final Passage. . . . .	26	2328	
1397-S	Second Reading. . . . .	75	Messages. . . . .	1
	Third Reading Final Passage. . . . .	75	4000	
1413-S	Second Reading. . . . .	76	Second Reading. . . . .	78
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1522-S2	Second Reading. . . . .	5	4005	
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1529-S	Other Action. . . . .	75	Third Reading Final Passage. . . . .	5
	Second Reading. . . . .	75	5044-S	
	Third Reading Final Passage. . . . .	76	Messages. . . . .	1
1571-S	Other Action. . . . .	70	President Signed. . . . .	75
	Second Reading. . . . .	26, 31, 32	5117-S	
	Third Reading Final Passage. . . . .	71	Messages. . . . .	1
1589	Other Action. . . . .	86	President Signed. . . . .	75
	Second Reading. . . . .	85	5267-S	
	Third Reading Final Passage. . . . .	86	Messages. . . . .	1
1740-S	Other Action. . . . .	77	President Signed. . . . .	75
	Second Reading. . . . .	76	5276-S	
	Third Reading Final Passage. . . . .	77	Messages. . . . .	1
1778-S	Other Action. . . . .	56, 70	President Signed. . . . .	75
	Second Reading. . . . .	6, 39, 56	5298	
	Third Reading Final Passage. . . . .	70	Messages. . . . .	1
1791-S	Other Action. . . . .	91, 95	President Signed. . . . .	75
	Second Reading. . . . .	86, 91	5303	
	Third Reading Final Passage. . . . .	95	Messages. . . . .	1
2021-S2	Other Action. . . . .	84	President Signed. . . . .	75
	Second Reading. . . . .	80, 84	5326-S	
	Third Reading Final Passage. . . . .	84	Messages. . . . .	1
2052-S	Second Reading. . . . .	77	President Signed. . . . .	75
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			5752-S	
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6160	
Introduction & 1st Reading. . . . .	1
6161	
Introduction & 1st Reading. . . . .	1
6162	
Introduction & 1st Reading. . . . .	1
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Introduction & 1st Reading. . . . .	1
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