

## WDFW Agency Request Legislation: "AN ACT Relating to increased deterrence and meaningful enforcement of fish and wildlife violations"

### Bill Text

**Sec. 1** RCW 77.15.050 is amended to read as follows:

~~(1) — Unless the context clearly requires otherwise, a As used in this chapter, "conviction" means : a final conviction in a state or municipal court.~~

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

(1) A finding of guilt or plea of guilty for any violation of this title or department rule;

(2) A finding of guilt or plea of guilty for any violation of this title or department rule regardless of whether the imposition of sentence is deferred or the penalty is suspended;

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

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

~~(5) or a~~ Any disposition of a case arising from an act originally charged as a violation of this title or department rule, or an infraction cited or referred as a violation of this title, department rule or 7.84 RCW, whereby the offender enters into a disposition that continues or defers the case for dismissal upon the successful completion of specific terms or conditions.

**NEW SECTION. Sec. 2** A new section is added to RCW 77.15 to read as follows (Suggested citation - RCW 77.15.055):

The clerk of the court shall prepare and immediately forward to the Enforcement Program of the department in Olympia an abstract of the court record covering the case upon conviction, failure to appear at a hearing to contest an infraction or a criminal charge, or an unvacated payment of a fine or a finding of committed as a final disposition of any infraction, or finding that a criminal act was committed for a violation of any provisions of this chapter or Department rule.

**Sec. 3** RCW 77.15.075 is amended to read as follows:

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

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

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

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

**Sec. 4** RCW 77.15.100 is amended to read as follows:

(1) Fish, shellfish, and wildlife are property of the state under RCW 77.04.012. Fish and wildlife officers may sell seized, commercially taken or possessed fish and shellfish to a wholesale buyer and deposit the proceeds into the fish and wildlife enforcement reward account under RCW 77.15.425. Seized, recreationally taken or possessed fish, shellfish, and wildlife may be donated to nonprofit charitable organizations. The charitable organization must qualify for tax-exempt status under 26 U.S.C. Sec. 501(c) (3) of the federal internal revenue code. Seized fish, shellfish, and wildlife may be returned to the environment or otherwise safely disposed of if storage is not practical under the circumstances once the evidentiary value of the seized fish, shellfish or wildlife has been preserved.

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

(3) Unless otherwise provided in this title, fish, shellfish, wildlife, any covered animal species part or product taken or possessed in violation of this title or department rule shall be forfeited to the state upon conviction as defined in RCW 77.15.050 ~~or any outcome in criminal court whereby a person voluntarily enters into a disposition that continues or defers the case for dismissal upon the successful completion of specific terms or conditions.~~ For ~~eriminal~~ criminal cases resulting in other types of dispositions that are not defined in RCW 77.15.050, including findings of not guilty, not committed or dismissal with prejudice due to a failure of proof or violation of law, the fish, shellfish, wildlife, or covered animal species part or product may be returned, or its equivalent value paid, if the fish, shellfish, wildlife, or covered animal species part or product have already been donated or sold. If a case is dismissed without prejudice and is subject to being refiled, the seized fish, shellfish, wildlife, or covered animal species part or product need not be returned until the statute of limitations for the violation has expired. Nothing in this section prevents the seizing authority from pursuing forfeiture under RCW 77.15.070 or any other statute or rule.

Sec. 5 RCW 77.15.160 is amended to read as follows:

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

(1) Fishing and shellfishing infractions:

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

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

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

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

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

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

(A) Salmon or steelhead;

(B) Sturgeon;

(C) Game fish;

(D) Food fish;

(E) Shellfish;

(F) Unclassified fish or shellfish;

(G) Waste of food fish, game fish or shellfish

This subsection does not apply to use of a net to take fish under RCW 77.15.580 or Unlawful Recreational Fishing 1<sup>st</sup> Degree under RCW 77.15.370 ~~or the unlawful use of shellfish gear for personal use under RCW 77.15.382.~~

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

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

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

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

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

(2) Hunting infractions:

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

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

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

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

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

(i) Unclassified wildlife;

(ii) Small game;

(iii) Furbearers;

(iv) Game birds;

(v) Wild birds;

(vi) Wild animals

(vii) Waste of small game

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

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

~~(ii) — Violates any department rule regarding seasons, closed areas, closed times, or any other rule addressing the manner or method of hunting wild birds.~~

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

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

- (i) Maintain records as required by department rule; or
- (ii) Report information from these records as required by department rule.
- (b) Trapper's report: Failing to report trapping activity as required by department rule.
- (4) Limited fish seller infraction: Failure of a holder of a limited fish seller endorsement to satisfy the food safety requirements to consumers under RCW 77.65.510(2).

(5)(a) Invasive species management infractions:

- (i) Out-of-state certification: Entering Washington in possession of an aquatic conveyance that does not meet certificate of inspection requirements as provided under RCW 77.135.100;
- (ii) Clean and drain requirements: Possessing an aquatic conveyance that does not meet clean and drain requirements under RCW 77.135.110;
- (iii) Clean and drain orders: Possessing an aquatic conveyance and failing to obey a clean and drain order under RCW 77.135.110 or 77.135.120; and
- (iv) Aquatic invasive species prevention permit requirements: Failing to possess a valid aquatic invasive species prevention permit as required under RCW 77.135.210, 77.135.220, or 77.135.230.

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

(6) Other infractions:

- (a) Contests: Conducting, holding, or sponsoring a hunting contest, a fishing contest involving game fish, or a competitive field trial using live wildlife.
- (b) Other rules: Violating any other department rule that is designated by rule as an infraction.
- (c) Posting signs: Posting signs preventing hunting or fishing on any land not owned or leased by the person doing the posting, or without the permission of the person who owns, leases, or controls the land posted.

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

- (i) Violates any terms or conditions of the ~~scientific~~ permit; or
- (ii) Violates any department rule applicable to the issuance or use of ~~scientific~~ permits.
- (iii) Violates any commercial use or activity permits, noncommercial use or activity permits, or parking permits

(e) This subsection does not apply to Discover Pass or Vehicle Use Permit requirements pursuant to RCW 79A.80.020