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State Endangered Species Act Statutes: *Washington*



This material is based upon work supported by the National Agricultural Library, Agricultural Research Service, U.S. Department of Agriculture

A National Agricultural Law Center Research Publication

State Endangered Species Act Statutes: Washington

Washington State Endangered Species Act §§ 77.15.120 – 77.15.135, 77-15-410 –77.15.430

Current through 2020 Regular Session

§ 77.15.120. Endangered fish or wildlife--Unlawful taking—Penalty

(1) A person is guilty of unlawful taking of endangered fish or wildlife in the second degree if:

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

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

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

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

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

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

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

(b) Unlawful taking of endangered fish or wildlife in the first degree is a class C felony. The department shall revoke any licenses or tags used in connection with the crime and order the person's privileges to hunt, fish, trap, or obtain licenses under this title to be suspended for two years.

§ 77.15.130. Protected fish or wildlife--Unlawful taking--Penalty--Criminal wildlife penalty assessment

(1) A person is guilty of unlawful taking of protected fish or wildlife if:



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

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

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

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

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

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

(a) Ferruginous hawk, two thousand dollars;

(b) Common loon, two thousand dollars;

(c) Bald eagle, two thousand dollars;

(d) Golden eagle, two thousand dollars; and

(e) Peregrine falcon, two thousand dollars.

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

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

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



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

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

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

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

(b) When the trier of fact determines that the person took or possessed the protected wildlife in question with the intent of bartering, selling, or otherwise deriving economic profit from the wildlife or wildlife parts.

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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



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

(9) The commission may adopt rules necessary for the implementation and enforcement of chapter 2, Laws of 2016.

§ 77.15.410. Unlawful hunting of big game—Penalty

(1) A person is guilty of unlawful hunting of big game in the second degree if the person:

(a) Hunts for, takes, or possesses big game and the person does not have and possess all licenses, tags, or permits required under this title; or

(b) Violates any department rule regarding seasons, bag or possession limits, closed areas including game reserves, closed times, or any other rule governing the hunting, taking, or possession of big game.

(2) A person is guilty of unlawful hunting of big game in the first degree if the person commits the act described in subsection (1) of this section and:

(a) The person hunts for, takes, or possesses three or more big game animals within the same course of events; or

(b) The act occurs within five years of the date of a prior conviction under this title involving unlawful hunting, killing, possessing, or taking big game.

(3)(a) Unlawful hunting of big game in the second degree is a gross misdemeanor. Upon conviction of an offense involving killing or possession of big game taken during a closed season, closed area, without the proper license, tag, or permit using an unlawful method, or in excess of the bag or possession limit, the department shall revoke all of the person's hunting licenses and tags and order a suspension of the person's hunting privileges for two years.

(b) Unlawful hunting of big game in the first degree is a class C felony. Upon conviction, the department shall revoke all of the person's hunting licenses or tags and order the person's hunting privileges suspended for ten years.

(4) For the purposes of this section, “same course of events” means within one twenty-four hour period, or a pattern of conduct composed of a series of acts that are unlawful under subsection (1) of this section, over a period of time evidencing a continuity of purpose.

§ 77.15.420. Illegally taken or possessed wildlife--Criminal wildlife penalty assessed

(1) If an adult offender is convicted of violating RCW 77.15.410 and that violation results in the death of wildlife listed in this section, the court shall require payment of the following amounts for each animal taken or possessed. This shall be a criminal wildlife penalty assessment that shall be paid to the clerk of the court and distributed each month to the state treasurer for deposit in the fish and wildlife enforcement reward account created in RCW 77.15.425.



(a)	Moose, mountain sheep, mountain goat, and all wildlife species classified as endangered by rule of the commission, except for mountain caribou and grizzly bear as listed under (d) of this subsection	\$4,000
(b)	Elk, deer, black bear, and cougar	\$2,000
(c)	Trophy animal elk and deer	\$6,000
(d)	Mountain caribou, grizzly bear, and trophy animal mountain sheep	\$12,000

(2)(a) For the purpose of this section a “trophy animal” is:

(i) A buck deer with four or more antler points on both sides, not including eyeguards;

(ii) A bull elk with five or more antler points on both sides, not including eyeguards; or

(iii) A mountain sheep with a horn curl of three-quarter curl or greater.

(b) For purposes of this subsection, “eyeguard” means an antler protrusion on the main beam of the antler closest to the eye of the animal.

(3) If two or more persons are convicted of illegally possessing wildlife in subsection (1) of this section, the criminal wildlife penalty assessment shall be imposed on them jointly and severally.



(4) The criminal wildlife penalty assessment shall be imposed regardless of and in addition to any sentence, fines, or costs otherwise provided for violating any provision of this title. The criminal wildlife penalty assessment shall be included by the court in any pronouncement of sentence and may not be suspended, waived, modified, or deferred in any respect. This section may not be construed to abridge or alter alternative rights of action or remedies in equity or under common law or statutory law, criminal or civil.

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

(6) A person assessed a criminal wildlife penalty assessment under this section shall have his or her hunting license revoked and all hunting privileges suspended until the penalty assessment is paid through the registry of the court in which the penalty assessment was assessed. This revocation and suspension is in addition to and runs concurrently with any revocation and suspension required by law.

(7) The criminal wildlife penalty assessments provided in subsection (1) of this section shall be doubled in the following instances:

(a) When a person is convicted of spotlighting big game under RCW 77.15.450;

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

(c) When the trier of fact determines that the person took or possessed the animal in question with the intent of bartering, selling, or otherwise deriving economic profit from the animal or the animal's parts;

or

(d) When the trier of fact determines that the person took the animal under the supervision of a licensed guide.

§ 77.15.425. Fish and wildlife enforcement reward account

The fish and wildlife enforcement reward account is created in the custody of the state treasurer. Deposits to the account include: Receipts from fish and shellfish overages as a result of a department enforcement action; fees for hunter education deferral applications; fees for master hunter applications and master hunter certification renewals; all receipts from criminal wildlife penalty assessments under this chapter; all receipts of court-ordered restitution or donations associated with any fish, shellfish, or wildlife enforcement action; and proceeds from forfeitures and evidence pursuant to RCW 77.15.070 and 77.15.100. The department may accept money or personal property from persons under conditions requiring the property or money to be used consistent with the intent of expenditures from the fish and wildlife enforcement reward account. Expenditures from the account may be used only for investigation and prosecution of fish and wildlife offenses, to provide rewards to persons informing the department about violations of this title and rules adopted under this title, to offset department-approved costs incurred to administer the hunter education deferral program



and the master hunter permit program, and for other valid enforcement uses as determined by the commission. Only the director or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

§ 77.15.430. Unlawful hunting of wild animals—Penalty

(1) A person is guilty of unlawful hunting of wild animals in the second degree if the person hunts for wild animals not classified as big game and, whether or not the person possesses the wild animals, the person has not purchased the appropriate hunting license issued to Washington residents or nonresidents under chapter 77.32 RCW.

(2) A person is guilty of unlawful hunting of wild animals in the second degree if the person:

(a) Takes or possesses a wild animal that is not classified as big game, and owns, but does not have in the person's possession, all licenses, tags, or permits required by this title; or

(b) Violates any department rule regarding seasons, bag or possession limits but less than two times the bag or possession limit, closed areas including game reserves, closed times, or any other rule addressing the manner or method of hunting or possession of wild animals not classified as big game.

(3) A person is guilty of unlawful hunting of wild animals in the first degree if the person takes or possesses two times or more than the possession or bag limit for wild animals that are not classified as big game animals as allowed by department rule.

(4)(a) Unlawful hunting of wild animals in the second degree is a misdemeanor.

(b) Unlawful hunting of wild animals in the first degree is a gross misdemeanor.

