

county auditors and the department of licensing in carrying out sections 1 through 6 of this act and providing for the reimbursement of all costs to county auditors and the department of licensing for these data processing services.

**NEW SECTION.** Sec. 11. A new section is added to chapter 29.07 RCW to read as follows:

The secretary of state shall include in his or her biennial budget requests sufficient funds to carry out the purposes of sections 1 through 6 of this act, including the reimbursement of costs to county auditors and the department of licensing under section 10(3) of this act.

Sec. 12. Section 29.85.200, chapter 9, Laws of 1965 as amended by section 110, chapter 361, Laws of 1977 ex. sess. and RCW 29.85.200 are each amended to read as follows:

Any person who:

(1) Knowingly ((gives)) provides false information on an application for voter registration((; or who)) under any provision of this title;

(2) Knowingly inakes or attests to a false declaration as to his or her qualifications as a voter((; or who falsely personates another and procures));

(3) Knowingly causes or permits himself or herself to be registered ((as the person so personated, or)) using the name of another person;

(4) Knowingly causes himself or herself to be registered under two or more different names((;)); or

(5) Knowingly causes any ((name)) person to be registered ((otherwise than in the manner provided by law)) or causes any registration to be transferred or canceled except as authorized under this title, shall be guilty of a class C felony under RCW 9A.72.030.

**NEW SECTION.** Sec. 13. Sections 1 through 8 of this act shall take effect January 1, 1992.

Passed the Senate February 7, 1990.

Passed the House March 7, 1990.

Approved by the Governor March 23, 1990.

Filed in Office of Secretary of State March 23, 1990.

## CHAPTER 144

[Substitute Senate Bill No. 6377]

### FOOD FISH AND SHELLFISH VIOLATIONS—PENALTIES

AN ACT Relating to violations of Title 75 RCW; amending RCW 75.10.030, 75.10.110, 75.10.120, and 75.12.090; adding new sections to chapter 75.10 RCW; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

**NEW SECTION.** Sec. 1. A new section is added to chapter 75.10 RCW to read as follows:

Persons who fish for food fish or shellfish for personal use and violate this title or the rules of the director shall be subject to the following penalties:

(1) The following violations are infractions and are punishable under chapter 7.84 RCW:

(a) The failure to immediately record a catch of salmon or sturgeon on a catch record card;

(b) The use of barbed hooks in a barbless hook-only fishery; and

(c) Other personal use violations specified by the director under RCW 75.10.110.

(2) The following violations are misdemeanors and are punishable under RCW 9.92.030:

(a) The retention of undersized food fish or shellfish;

(b) The retention of more food fish or shellfish than is legally allowed, but less than three times the legally allowed personal use limit;

(c) The intentional wasting of recreationally caught food fish or shellfish; and

(d) The setting or lifting of shrimp pots in Hood Canal from one hour after sunset until one hour before sunrise.

(3) The following violations are gross misdemeanors and are punishable under RCW 9.92.020:

(a) The snagging of food fish;

(b) Fishing in closed areas or during a closed season;

(c) Commingling a personal food fish catch with a commercial food fish catch;

(d) The retention of at least three times the legally allowed personal use limits of food fish or shellfish;

(e) The sale, barter, or trade of food fish or shellfish with a wholesale value of less than two hundred fifty dollars by a person who has caught the food fish or shellfish with fishing gear authorized under personal use rules or who has received the food fish or shellfish from someone who caught it with fishing gear authorized under personal use rules; and

(f) Other unclassified personal use violations of Title 75 RCW.

(4) The following violation is a class C felony and is punishable under RCW 9A.20.021(1)(c): The sale, barter, or trade of food fish or shellfish with a wholesale value of two hundred fifty dollars or more by a person who has caught the food fish or shellfish with fishing gear authorized under personal use rules or has received the food fish or shellfish from someone who caught it with fishing gear authorized under personal use rules.

**NEW SECTION.** Sec. 2. A new section is added to chapter 75.10 RCW to read as follows:

Persons who fish, buy, or sell food fish and shellfish commercially and violate this title or the rules of the director shall be subject to the following penalties:

(1) The following violations are misdemeanors and are punishable under RCW 9.92.030:

(a) The failure to complete a fish ticket with all the required information for a commercial fish or shellfish landing; and

(b) The failure to report a commercial fish catch as required by department rules.

(2) The following violations are gross misdemeanors and are punishable under RCW 9.92.020:

(a) The retention of illegal food fish or shellfish species;

(b) The wasting of commercially caught food fish or shellfish;

(c) Commingling commercial and personal use food fish or shellfish catches;

(d) The failure to comply with department rules on commercial fishing licenses;

(e) The failure to comply with department requirements on fishing gear specifications;

(f) The failure to obtain a delivery license as required by department rules;

(g) Violations of the fisheries statutes or rules by fish buyers or wholesale dealers other than violations for fish tickets under subsection (1)(a) of this section;

(h) Fishing during a closed season;

(i) Illegal geoduck harvesting off the legal harvesting tract; and

(j) Other unclassified commercial violations of Title 75 RCW.

(3) The following violations are class C felonies and are punishable under RCW 9A.20.021(1)(c):

(a) Intentionally fishing in a closed area using fishing gear not authorized under personal use regulations;

(b) Intentionally netting salmon in the Pacific Ocean;

(c) Harvesting more than one hundred pounds of geoducks outside of the boundaries of a harvest tract designated by a harvest agreement from the department of natural resources if:

(i) The harvester does not have a valid harvesting agreement from the department of natural resources; or

(ii) The harvesting is done more than one-half mile from the nearest boundary of any harvesting tract designated by a department of natural resources harvesting agreement;

(d) Unlawful participation by a non-Indian fisher with intent to profit in a treaty Indian fishery;

(e) Intentionally fishing within the closed waters of a fish hatchery;

(f) The sale, barter, or trade of food fish or shellfish with a wholesale value of two hundred fifty dollars or more by a person who does not have a valid commercial fishing license and has caught the food fish or shellfish using fishing gear not authorized under personal use rules, or has received

the food fish or shellfish from someone who has caught it with fishing gear not authorized under personal use rules; and

(g) Being in possession of food fish or shellfish with a wholesale value of two hundred fifty dollars or more while using fishing gear not authorized under personal use regulations without a valid commercial fishing license.

**NEW SECTION.** Sec. 3. A new section is added to chapter 75.10 RCW to read as follows:

Persons who violate this title or the rules of the director shall be subject to the following penalties:

(1) The following violations are gross misdemeanors and are punishable under RCW 9A.02.020:

(a) Violating RCW 75.20.100; and

(b) Violating department statutes that require fish screens, fish ladders, and other protective devices for fish.

(2) The following violations are a class C felony and are punishable under RCW 9A.20.021(1)(c):

(a) Discharging explosives in waters that contain adult salmon or sturgeon: PROVIDED, That lawful discharge of devices for the purpose of frightening or killing marine mammals or for the lawful removal of snags or for actions approved under RCW 75.20.100 or 75.12.070(2) are exempt from this subsection; and

(b) To knowingly purchase food fish or shellfish with a wholesale value greater than two hundred fifty dollars that were taken by methods or during times not authorized by department of fisheries rules, or were taken by someone who does not have a valid commercial fishing license, a valid fish buyer's license, or a valid wholesale dealer's license, or were taken with fishing gear authorized for personal use.

**NEW SECTION.** Sec. 4. A new section is added to chapter 75.10 RCW to read as follows:

Persons who repeatedly demonstrate indifference and disrespect for the fisheries laws of the state shall be considered a threat to the fisheries resource. These habitual offenders shall be denied the privilege of harvesting food fish or shellfish.

The director may revoke or may prescribe conditions for issuing the personal use license or the commercial fishing license, or both, of persons who have four or more gross misdemeanors or class C felony convictions for fisheries violations within a twelve-year period. All food fish and shellfish fishing privileges shall be revoked for the same time period as a license is revoked. A revoked license shall not be reissued for a period of at least two years from the date of revocation, and shall be reissued only under the discretion of the director.

For purposes of this section, "conviction" means a final conviction in a state or municipal court. An unvacated forfeiture of bail or collateral of two hundred fifty dollars or more deposited to secure a defendant's appearance

in court, the payment of a fine, a plea of guilty, or a finding of guilt for violating a provision of this title is equivalent to a conviction regardless of whether the imposition of sentence is deferred or the penalty is suspended.

Sec. 5. Section 75.36.010, chapter 12, Laws of 1955 as amended by section 34, chapter 46, Laws of 1983 1st ex. sess. and RCW 75.10.030 are each amended to read as follows:

(1) Fisheries patrol officers and ex officio fisheries patrol officers may seize without warrant food fish or shellfish they have reason to believe have been taken, killed, transported, or possessed in violation of this title or rule of the director and may seize without warrant ((a)) boats, vehicles, gear, appliances, or other articles they have reason to believe is held with intent to violate or has been used in violation of this title or rule of the director. The articles seized shall be subject to forfeiture to the state, regardless of ownership. Articles seized may be recovered by their owner by depositing into court a cash bond equal to the value of the seized articles but not more than ((five)) twenty-five thousand dollars. The cash bond is subject to forfeiture to the state in lieu of the seized article.

(2)(a) In the event of a seizure of an article under subsection (1) of this section, proceedings for forfeiture shall be deemed commenced by the seizure. Within fifteen days following the seizure, the seizing authority shall serve notice on the owner of the property seized and on any person having any known right or interest in the property seized. Notice may be served by any method authorized by law or court rule, including service by certified mail with return receipt requested. Service by mail shall be deemed complete upon mailing within the fifteen-day period following the seizure.

(b) If no person notifies the department in writing of the person's claim of ownership or right to possession of the articles seized under subsection (1) of this section within forty-five days of the seizure, the articles shall be deemed forfeited.

(c) If any person notifies the department in writing within forty-five days of the seizure, the person shall be afforded an opportunity to be heard as to the claim or right. The hearing shall be before the director or the director's designee, or before an administrative law judge appointed under chapter 34.12 RCW, except that a person asserting a claim or right may remove the matter to a court of competent jurisdiction if the aggregate value of the articles seized is more than five thousand dollars. The department hearing and any subsequent appeal shall be as provided for in Title 34 RCW. The burden of producing evidence shall be upon the person claiming to be the lawful owner or person claiming lawful right of possession of the articles seized. The department shall promptly return the seized articles to the claimant upon a determination by the director or the director's designee, an administrative law judge, or a court that the claimant is the present lawful owner or is lawfully entitled to possession of the articles seized, and that the seized articles were improperly seized.

(d)(i) No conveyance, including vessels, vehicles, or aircraft, is subject to forfeiture under this section by reason of any act or omission established by the owner of the conveyance to have been committed or omitted without the owner's knowledge or consent.

(ii) A forfeiture of a conveyance encumbered by a perfected security interest is subject to the interest of the secured party if the secured party neither had knowledge nor consented to the act or omission.

(e) When seized property is forfeited under this section the department may retain it for official use unless the property is required to be destroyed, or upon application by any law enforcement agency of the state, release such property to the agency for the use of enforcing this title, or sell such property, and deposit the proceeds to the state general fund, as provided for in RCW 75.08.230.

Sec. 6. Section 75.08.260, chapter 12, Laws of 1955 as last amended by section 16, chapter 380, Laws of 1987 and RCW 75.10.110 are each amended to read as follows:

(1) Unless otherwise provided for in this title, a person who violates this title or rules of the director (~~(or who aids or abets in the violation)~~) is guilty of a gross misdemeanor, and upon a conviction thereof shall be (~~(punished by imprisonment in the county jail of the county in which the offense is committed for not less than thirty days or more than one year, or by a fine of not less than twenty-five dollars or more than one thousand dollars, or by both such fine and imprisonment)~~) subject to the penalties under RCW 9.92.020. Food fish or shellfish involved in the violation shall be forfeited to the state. The court may forfeit seized articles involved in the violation.

(2) The director may specify by rule, when not inconsistent with applicable statutes, that violation of a specific rule is an infraction under chapter 7.84 RCW. (~~(A person taking or possessing salmon in violation of this title or rules of the director shall be punished by a fine in an amount not more than five thousand dollars if the salmon involved in the violation have a market value greater than two hundred fifty dollars. This fine is in addition to the punishment resulting under subsection (1) of this section.)~~)

Sec. 7. Section 75.28.380, chapter 12, Laws of 1955 as last amended by section 43, chapter 46, Laws of 1983 1st ex. sess. and RCW 75.10.120 are each amended to read as follows:

(1) Upon conviction of a person for a violation of this title or rule of the director, in addition to the penalty imposed by law, the court may forfeit the person's license or licenses.

~~((2) The court shall forfeit the license: (a) Upon conviction for a violation of this title or rule of the director prescribing the length, depth, or construction of fishing gear, or (b) upon two or more convictions in a five-year period of any violation of this title or rule of the director.))~~ The license or licenses shall remain forfeited pending appeal.

(2) The director may prohibit, for one year, the issuance of ((a)) all commercial fishing licenses to a person convicted of two or more gross misdemeanor or class C felony violations of this title or rule of the director in a five-year period or prescribe the conditions under which the license or licenses may be issued. For purposes of this section, the term "conviction" means a final conviction in a state or municipal court. An unvacated forfeiture of bail or collateral of two hundred fifty dollars or more deposited to secure the defendant's appearance in court, the payment of a fine, a plea of guilty, or a finding of guilt on a violation of this title or rule of the director is equivalent to a conviction regardless of whether the imposition of sentence is deferred or the penalty is suspended.

Sec. 8. Section 75.12.090, chapter 12, Laws of 1955 as last amended by section 54, chapter 46, Laws of 1983 1st ex. sess. and RCW 75.12.090 are each amended to read as follows:

(1) It is unlawful to take food fish or shellfish from a building, vehicle, vessel, container, or fishing gear thereby depriving the rightful owner of the food fish or shellfish.

(2) It is unlawful to ((steal or)) molest gear used to take food fish or shellfish for either commercial purposes or personal use.

Passed the Senate March 3, 1990.

Passed the House February 27, 1990.

Approved by the Governor March 23, 1990.

Filed in Office of Secretary of State March 23, 1990.

## CHAPTER 145

[Substitute Senate Bill No. 6493]

### ADOPTION INFORMATION ACCESS

AN ACT Relating to access to adoption information; amending RCW 26.33.330 and 26.33.340; and adding new sections to chapter 26.33 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 26.33 RCW to read as follows:

(1) An adopted person over the age of twenty-one years, or under twenty-one with the permission of the adoptive parent, or a birth parent or member of the birth parent's family after the adoptee has reached the age of twenty-one may petition the court to appoint a confidential intermediary. The intermediary shall search for and discreetly contact the birth parent or adopted person, or if they are not alive or cannot be located within one year, the intermediary may attempt to locate members of the birth parent or