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SENATE BILL 5187

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State of Washington

63rd Legislature

2013 Regular Session

By Senators Smith, Becker, Roach, Schoesler, and Honeyford

1 AN ACT Relating to protecting livestock against predator attacks;  
2 and amending RCW 77.36.030, 77.15.120, 77.15.130, 77.15.410, and  
3 77.15.430.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 77.36.030 and 2009 c 333 s 61 are each amended to read  
6 as follows:

7 (1) Except as otherwise provided by this section, and subject to  
8 limitations and conditions established by the commission, the owner,  
9 the owner's immediate family member, the owner's documented employee,  
10 or a tenant of real property may trap, consistent with RCW 77.15.194,  
11 or kill wildlife that is threatening human safety or causing property  
12 damage on that property, without the licenses required under RCW  
13 77.32.010 or authorization from the director under RCW 77.12.240.

14 (2) The commission shall establish the limitations and conditions  
15 of this section by rule. The rules must include:

16 (a) Appropriate protection for threatened or endangered species;

17 (b) Instances when verbal or written permission is required to kill  
18 wildlife;

19 (c) Species that may be killed under this section; and

1 (d) Requirements for the disposal of wildlife trapped or killed  
2 under this section.

3 ~~(3) ((In establishing the limitations and conditions of this~~  
4 ~~section, the commission shall take into consideration the~~  
5 ~~recommendations of the Washington state wolf conservation and~~  
6 ~~management plan.))~~ (a) The commission's rules must allow for an owner,  
7 the owner's immediate family member, the agent of an owner, or the  
8 owner's documented employee to kill a mammalian predator, regardless of  
9 state classification, without a permit or other form of permission.

10 (b) For the purposes of (a) of this subsection, the term "owner"  
11 refers to the owner of the livestock being attacked and not the land  
12 where the attack occurs. The rules adopted under this subsection (3)  
13 must be made applicable across all lands, public and private, where  
14 livestock are found.

15 **Sec. 2.** RCW 77.15.120 and 2000 c 107 s 236 are each amended to  
16 read as follows:

17 (1) A person is guilty of unlawful taking of endangered fish or  
18 wildlife in the second degree if the person hunts, fishes, possesses,  
19 maliciously harasses or kills fish or wildlife, or maliciously destroys  
20 the nests or eggs of fish or wildlife and the fish or wildlife is  
21 designated by the commission as endangered, and the taking is not  
22 consistent with RCW 77.36.030 or has not been authorized by rule of the  
23 commission.

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

26 (a) Convicted under subsection (1) of this section or convicted of  
27 any crime under this title involving the killing, possessing,  
28 harassing, or harming of endangered fish or wildlife; and

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

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

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

1       **Sec. 3.** RCW 77.15.130 and 2012 c 176 s 14 are each amended to read  
2 as follows:

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

5       (a) The person hunts, fishes, possesses, or maliciously kills  
6 protected fish or wildlife, or the person possesses or maliciously  
7 destroys the eggs or nests of protected fish or wildlife, and the  
8 taking is not consistent with RCW 77.36.030 or has not been authorized  
9 by rule of the commission; or

10       (b) The person violates any rule of the commission regarding the  
11 taking, harming, harassment, possession, or transport of protected fish  
12 or wildlife.

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

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

22       (a) Ferruginous hawk, two thousand dollars;

23       (b) Common loon, two thousand dollars;

24       (c) Bald eagle, two thousand dollars;

25       (d) Golden eagle, two thousand dollars; and

26       (e) Peregrine falcon, two thousand dollars.

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

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

37       (b) This subsection may not be construed to abridge or alter

1 alternative rights of action or remedies in equity or under common law  
2 or statutory law, criminal or civil.

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

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

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

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

19 (b) When the person killed the protected wildlife in question with  
20 the intent of bartering, selling, or otherwise deriving economic profit  
21 from the wildlife or wildlife parts.

22 **Sec. 4.** RCW 77.15.410 and 2012 c 176 s 26 are each amended to read  
23 as follows:

24 (1) Except as provided in RCW 77.36.030, a person is guilty of  
25 unlawful hunting of big game in the second degree if the person:

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

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

33 (2) Except as provided in RCW 77.36.030, a person is guilty of  
34 unlawful hunting of big game in the first degree if the person commits  
35 the act described in subsection (1) of this section and:

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

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

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

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

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

19 **Sec. 5.** RCW 77.15.430 and 2012 c 176 s 27 are each amended to read  
20 as follows:

21 (1) Except as provided in RCW 77.36.030, a person is guilty of  
22 unlawful hunting of wild animals in the second degree if the person  
23 hunts for wild animals not classified as big game and, whether or not  
24 the person possesses the wild animals, the person has not purchased the  
25 appropriate hunting license issued to Washington residents or  
26 nonresidents under chapter 77.32 RCW.

27 (2) Except as provided in RCW 77.36.030, a person is guilty of  
28 unlawful hunting of wild animals in the second degree if the person:

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

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

1           (3) Except as provided in RCW 77.36.030, a person is guilty of  
2 unlawful hunting of wild animals in the first degree if the person  
3 takes or possesses two times or more than the possession or bag limit  
4 for wild animals that are not classified as big game animals as allowed  
5 by department rule.

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

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

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