

Summary Sheet

Meeting dates: August 23, 2019

Agenda item: 2020 Proposed Agency Request Legislation: Enforcement Civil Authority

Presenter(s): Nate Pamplin, Director of Budget and Government Affairs
Raquel Crosier, Legislative Director
Jeff Wickersham, Region 3 Captain, Enforcement Program

Background summary:

At the June 2019 Commission meeting, staff proposed five draft bills. After further review, and keeping in mind Commission guidance to reduce the number of bills to pursue while the Department is simultaneously seeking a substantial supplemental budget request, the Department recommended the Commission advance two bills at the August meeting: State Wildlife Account Budget Transparency legislation and Enforcement Civil Authority legislation.

At the August 2019 meeting, staff provided an update on the 2020 Legislative Session, including proposed agency request legislation. The Commission approved the State Wildlife Account Budget Transparency legislation be advanced as agency request, but requested staff return with more information on the Enforcement Civil Authority legislation, specifically the revocation changes.

Department staff conducted a preliminary analysis of one of the components of the bill regarding the license revocation framework. Based on the result of the analysis, as well as recognition that the Department would also like to amend the commercial license revocation framework, it was decided to not advance this component as part of the 2020 legislative proposal, but to move forward with the four components addressed below. A broader license revocation bill may be pursued for the 2021 legislative session. At this briefing, staff will present more information regarding the Enforcement Civil Authority draft proposal and seek approval to advance the bill, without the revocation component, as agency request legislation.

Enforcement Civil Authority Bill. This bill accomplishes four items:

- Allows some lower level fish and wildlife violations to be charged as an infraction. Often, deputy prosecutors will altogether dismiss, or amend to a different charge, an offense by a violator. When prosecutors routinely dismiss misdemeanor wildlife offenses it decriminalizes these activities, allowing repeat offenders to poach without fear of punishment. Providing additional civil infraction options allows fish and wildlife enforcement officers the discretion to reduce violations from misdemeanors to infractions, thereby allowing officers to distinguish frequent offenders from those that have no history of violating a fish and wildlife rule. Furthermore, issuing infractions for minor violations allows WDFW officers to immediately serve the infraction, similar to writing a speeding ticket. The recipient of an infraction can either pay their fine in court or contest the infraction, similar to a traffic ticket. Correcting the behavior of low-level violators with an infraction, rather than a misdemeanor, is more likely to keep hunters and fishers participating in the sport.
 - Changes the definition of conviction, allowing the Department to maintain possession of seized fish, shellfish and wildlife for an increased number of case dispositions. Fish and Wildlife offenses are frequently processed as infractions or criminal code offenses that do not currently qualify as a "conviction" under RCW 77.15.050. These infractions and criminal code offenses do not trigger the forfeiture of animal parts to the
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Department. Under current statutes, the Department may be liable to an offender for the return of or payment for, seized fish, shellfish, or wildlife if the offender's case resolves with a wildlife infraction. The conviction definition is incomplete and allows defendants and attorneys to exploit the possibility of a lower-level infraction charge. The definition of "conviction" would be updated to allow an infraction to also result in the Department maintaining possession of seized animals.

- Requires notice of citation disposition by courts.
The Department cannot effectively manage bad actors and revoke licenses or prevent a criminal from purchasing a new fishing or hunting license if the Department is not aware cases rulings or dispositions. This proposal would add a new statute, requiring the clerk of the court hearing the case to prepare and immediately forward an abstract of the court record to WDFW Enforcement.
- Aligns Department recruitment with other civil service and law enforcement agencies.
In 2018 the legislature amended the eligibility requirement for most civil service and law enforcement agencies to include "lawful permanent resident" as an alternative to requiring United States citizenship to serve as a law enforcement officer. The Department's statutes weren't captured during that revision, leaving our enforcement personnel as the only law enforcement in the state that cannot appoint lawful permanent residents to serve as police officers. This proposal would add "lawful permanent resident" to RCW 77.15.075 as an alternative to United States citizenship, bringing the Department's recruitment into alignment with the state's other law enforcement agencies.

Staff recommendation: Staff are seeking approval from the Commission to advance the Enforcement Civil Authority bill to the Governor's Office as agency request legislation.

Policy issue(s) and expected outcome: Improves enforcement outcomes by decreasing recidivism, while keeping hunters and fishers in the sport. This outcome will be achieved through reducing the burden on county prosecutors, changing the definition of conviction to prevent returning seized wildlife to those convicted of a wildlife crime, requiring courts to notify the Department of case dispositions, and aligning enforcement officer recruitment with other civil service and law enforcement agencies.

Fiscal impacts of agency implementation: N/A

Public involvement process used and what you learned: The Department met with the Budget and Policy Advisory Group on July 31 to review this proposal and received positive feedback. The Department plans to meet with stakeholder groups between now and the beginning of the legislative session to brief them on the legislation and ask for their support. Relevant stakeholder groups include, but are not limited to: the Administrative Office of the Courts, Washington Association of County Clerks, Washington Association of Prosecuting Attorneys, Washington State Association of Counties, Hunter's Heritage, Trout Unlimited, Puget Sound Anglers, Coastal Conservation Association, and the Inland Northwest Wildlife Council.

Action requested and/or proposed next steps: N/A

Draft motion language: “I move to approve the agency-request legislative proposal as proposed by staff.”

Post decision communications plan: The Department will work with members of the Budget and Policy Advisory Group and other advisory groups and stakeholders to secure support for this bill. Legislative fact sheets and other outreach materials will be posted to the Department’s website and provided to the Commission.