
SECOND ENGROSSED SUBSTITUTE HOUSE BILL 1471

State of Washington

53rd Legislature

1993 Regular Session

By House Committee on Fisheries & Wildlife (originally sponsored by Representatives King, Basich, Orr, Fuhrman, Brumsickle, Foreman and G. Cole)

Read first time 03/01/93.

1 AN ACT Relating to non-Puget Sound coastal commercial crab fishery;
2 amending RCW 75.28.044, 75.28.046, 75.28.130, and 75.28.113; reenacting
3 and amending RCW 75.30.050 and 75.28.125; adding a new section to
4 chapter 75.28 RCW; adding new sections to chapter 75.30 RCW; creating
5 a new section; and providing an effective date.

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

7 NEW SECTION. **Sec. 1.** The legislature finds that the commercial
8 crab fishery in coastal and offshore waters is overcapitalized. The
9 legislature further finds that this overcapitalization has lead to the
10 economic destabilization of the coastal crab industry, and can cause
11 excessive harvesting pressures on the coastal crab resources of
12 Washington state. In order to provide for the economic well-being of
13 the Washington crab industry and to protect the livelihood of
14 Washington crab fishers who have historically and continuously
15 participated in the coastal crab fishery, the legislature finds that it
16 is in the best interests of the economic well-being of the coastal crab
17 industry to reduce the number of fishers taking crab in coastal waters,
18 to reduce the number of vessels landing crab taken in offshore waters,

1 to limit the number of future licenses, and to limit fleet capacity by
2 limiting vessel size.

3 NEW SECTION. **Sec. 2.** (1) Effective January 1, 1995, it is
4 unlawful to fish for coastal crab in Washington state waters or deliver
5 coastal crab to a port in the state without a Dungeness crab--coastal
6 or a Dungeness crab--coastal class B fishery license.

7 (2) A Dungeness crab--coastal fishery license is transferable.
8 Such a license shall only be issued to a person who proved active
9 historical participation in the coastal crab fishery by having
10 designated, as of December 31, 1993, a vessel on the qualifying license
11 that meets the following criteria:

12 (a) Made a minimum of eight coastal crab landings totaling a
13 minimum of five thousand pounds per season in at least two of the four
14 qualifying seasons identified in subsection (4) of this section, as
15 documented by valid Washington state shellfish receiving tickets; and
16 showed historical and continuous participation in the coastal crab
17 fishery by having held one of the following licenses or their
18 equivalents each calendar year beginning 1990 through 1993, and was
19 designated on the qualifying license of the person who held one of the
20 following licenses in 1994:

21 (i) Crab pot«Non-Puget Sound license, issued under RCW
22 75.28.130(1)(b);

23 (ii) Nonsalmon delivery license, issued under RCW 75.28.125;

24 (iii) Salmon troll license, issued under RCW 75.28.110;

25 (iv) Salmon delivery license, issued under RCW 75.28.113;

26 (v) Food fish trawl license, issued under RCW 75.28.120; or

27 (vi) Shrimp trawl license, issued under RCW 75.28.130; or

28 (b) Made a minimum of four landings of coastal crab totaling two
29 thousand pounds during the period from December 1, 1991, to March 20,
30 1992, and made a minimum of eight crab landings totaling a minimum of
31 five thousand pounds of coastal crab during each of the following
32 periods: December 1, 1991, to September 15, 1992; December 1, 1992, to
33 September 15, 1993; and December 1, 1993, to September 15, 1994. For
34 landings made after December 31, 1993, the vessel shall have been
35 designated on the qualifying license of the person making the landings.

36 (3) A Dungeness crab--coastal class B fishery license is not
37 transferable. Such a license shall be issued to persons who do not
38 meet the qualification criteria for a Dungeness crab--coastal fishery

1 license, if the person is the registered owner, as of December 31,
2 1993, of a vessel that made a minimum of four landings totaling a
3 minimum of two thousand pounds of coastal crab, documented by valid
4 Washington state shellfish receiving tickets, during at least one of
5 the four qualifying seasons, and if the person has participated
6 continuously in the coastal crab fishery by having held one or more of
7 the licenses listed in subsection (2) of this section in each calendar
8 year subsequent to the qualifying season in which qualifying landings
9 were made through 1994. Dungeness crab--coastal class B fishery
10 licenses cease to exist after December 31, 1997, and the continuing
11 license provisions of RCW 34.05.422(3) are not applicable.

12 (4) The four qualifying seasons for purposes of this section are:

13 (a) December 1, 1988, through September 15, 1989;

14 (b) December 1, 1989, through September 15, 1990;

15 (c) December 1, 1990, through September 15, 1991; and

16 (d) December 1, 1991, through September 15, 1992.

17 (5) For purposes of this section and section 4 of this act,
18 "coastal crab" means Dungeness crab (cancer magister) taken in all
19 Washington territorial and offshore waters south of the United States-
20 Canada boundary and west of the Bonilla-Tatoosh line (a line from the
21 western end of Cape Flattery to Tatoosh Island lighthouse, then to the
22 buoy adjacent to Duntz Rock, then in a straight line to Bonilla Point
23 of Vancouver island), Grays Harbor, Willapa Bay, and the Columbia
24 river.

25 NEW SECTION. **Sec. 3.** The legislature finds that some persons may
26 have seriously planned to enter the commercial crab fishery, but were
27 unable to fulfill the landing requirements because the vessel under
28 construction was not completed in sufficient time to make the
29 qualifying landings.

30 (1) A person who cannot demonstrate participation in the coastal
31 crab fishery under section 2 of this act shall be awarded a Dungeness
32 crab--coastal fishery license if:

33 (a) The person, as of December 31, 1993, has designated a vessel on
34 the qualifying license that was in the process of being constructed for
35 the purpose of being employed in the Washington coastal crab fishery on
36 March 20, 1992. For purposes of this section, "construction" means
37 having the keel laid, and "for the purpose of being employed in the

1 Washington coastal crab fishery" means the vessel is designed to
2 retrieve crab pots mechanically and has a live well; and

3 (b) The vessel landed both five thousand pounds of coastal crab
4 into a Washington port before September 15, 1993, and five thousand
5 pounds of coastal crab in eight landings between December 1, 1993, and
6 September 15, 1994, or else the vessel under construction is a
7 replacement vessel for a lost vessel that, had it not been lost, would
8 have contributed to the eligibility of the applicant for a Dungeness
9 crab--coastal fishery license.

10 (2) All applications for Dungeness crab--coastal fishery licenses
11 under this section shall be subject to review by the advisory review
12 board in accordance with RCW 75.30.060. The board shall recommend to
13 the director whether such applications should be accepted.

14 NEW SECTION. **Sec. 4.** (1) An Oregon resident who can show
15 historical and continuous participation in the Washington state coastal
16 crab fishery by having held a nonresident Non-Puget Sound crab pot
17 license issued under RCW 75.28.130 each year from 1990 through 1994,
18 and who has delivered a minimum of eight landings totaling five
19 thousand pounds of crab into Oregon during any two of the four
20 qualifying seasons as provided in section 2(4) of this act as evidenced
21 by valid Oregon fish receiving tickets, shall be issued a nonresident
22 Dungeness crab--coastal fishery license valid for fishing in Washington
23 state waters north from the Oregon-Washington boundary to United States
24 latitude forty-six degrees thirty minutes north. Such license shall be
25 issued upon application and submission of proof of delivery.

26 (2) This section shall become effective contingent upon reciprocal
27 statutory authority in the state of Oregon providing for equal access
28 for Washington state coastal crab fishers to Oregon territorial coastal
29 waters north of United States latitude forty-five degrees fifty-eight
30 minutes north, and Oregon waters of the Columbia river.

31 NEW SECTION. **Sec. 5.** (1) The following restrictions apply to
32 vessel designations and substitutions on Dungeness crab--coastal
33 fishery licenses and Dungeness crab--coastal class B fishery licenses:

34 (a) The holder of the license may not designate on the license a
35 vessel the hull length of which exceeds ninety-nine feet, nor may the
36 holder change vessel designation if the hull length of the vessel

1 proposed to be designated exceeds the hull length of the currently
2 designated vessel by more than ten feet;

3 (b) If the hull length of the vessel proposed to be designated is
4 comparable to or exceeds by up to one foot the hull length of the
5 currently designated vessel, the department may change the vessel
6 designation no more than once in any two consecutive Washington state
7 coastal crab seasons unless the currently designated vessel is lost or
8 in disrepair such that it does not safely operate, in which case the
9 department may allow a change in vessel designation;

10 (c) If the hull length of the vessel proposed to be designated
11 exceeds by between one and ten feet the hull length of the currently
12 designated vessel, the department may change the vessel designation no
13 more than once in any five consecutive Washington state coastal crab
14 seasons, unless a request is made by the license holder during a
15 Washington state coastal crab season for an emergency change in vessel
16 designation. If such an emergency request is made, the director may
17 allow a temporary change in designation to a leased or rented vessel,
18 if the hull length of the leased or rented vessel does not exceed by
19 more than ten feet the hull length of the currently designated vessel.

20 (2) For the purposes of this section, "hull length" means the
21 length of a vessel's hull as shown by United States coast guard
22 documentation or marine survey, or for vessels that do not require
23 United States coast guard documentation, by manufacturer's
24 specifications or marine survey.

25 **Sec. 6.** RCW 75.28.044 and 1993 sp.s. c 17 s 45 are each amended to
26 read as follows:

27 This section applies to all commercial fishery licenses, delivery
28 licenses, and charter licenses, except for emergency salmon delivery
29 licenses.

30 (1) The holder of a license subject to this section may substitute
31 the vessel designated on the license or designate a vessel if none has
32 previously been designated if the license holder:

33 (a) Surrenders the previously issued license to the department;

34 (b) Submits to the department an application that identifies the
35 currently designated vessel, the vessel proposed to be designated, and
36 any other information required by the department; and

37 (c) Pays to the department a fee of thirty-five dollars.

1 (2) Unless the license holder owns all vessels identified on the
2 application described in subsection (1)(b) of this section or unless
3 the vessel is designated on a Dungeness crab--coastal or a Dungeness
4 crab--coastal class B fishery license, the following restrictions apply
5 to changes in vessel designation:

6 (a) The department shall change the vessel designation on the
7 license no more than four times per calendar year.

8 (b) The department shall change the vessel designation on the
9 license no more than once in any seven-day period.

10 **Sec. 7.** RCW 75.28.046 and 1993 c 340 s 9 are each amended to read
11 as follows:

12 This section applies to all commercial fishery licenses, delivery
13 licenses, and charter licenses, except for whiting--Puget Sound fishery
14 licenses and emergency salmon delivery licenses.

15 (1) The license holder may engage in the activity authorized by a
16 license subject to this section. With the exception of Dungeness
17 crab--coastal fishery class B licensees licensed under section 2(3) of
18 this act, the holder of a license subject to this section may also
19 designate up to two alternate operators for the license. Dungeness
20 crab--coastal fishery class B licensees may not designate alternate
21 operators. A person designated as an alternate operator must possess
22 an alternate operator license issued under section 23 of this act and
23 RCW 75.28.048.

24 (2) The fee to change the alternate operator designation is twenty-
25 two dollars.

26 NEW SECTION. **Sec. 8.** Except as provided under section 12 of this
27 act, after December 31, 1995, a Dungeness crab--coastal fishery license
28 may only be issued to a person who held the license in 1995, or has had
29 the license transferred to the person. Once a license is issued,
30 renewal is contingent on continuous holding of the license; however
31 where the failure to hold a license continuously is the result of
32 license suspension, the license may be renewed if the person whose
33 license is suspended held a Dungeness crab--coastal fishery license in
34 the year before license suspension.

35 **Sec. 9.** RCW 75.28.130 and 1993 sp.s. c 17 s 40 are each amended to
36 read as follows:

1	(r) Shrimp trawl«	\$185	\$295	Yes	No
2	Puget Sound				
3	(s) Squid	\$185	\$295	Yes	No

4 (2) The director may by rule determine the species of shellfish
5 that may be taken with the commercial fishery licenses established in
6 this section, the gear that may be used with the licenses, and the
7 areas or waters in which the licenses may be used. Where a fishery
8 license has been established for a particular species, gear,
9 geographical area, or combination thereof, a more general fishery
10 license may not be used to take shellfish in that fishery.

11 NEW SECTION. **Sec. 10.** A surcharge of fifty dollars shall be
12 collected with each Dungeness crab--coastal fishery license issued
13 under RCW 75.28.130 until June 30, 2000, and with each Dungeness crab--
14 coastal class B fishery license issued under RCW 75.28.130 until
15 December 31, 1997. Moneys collected under this section shall be placed
16 in the Dungeness crab appeals account hereby created in the state
17 treasury. The account is subject to allotment procedures under chapter
18 43.88 RCW, but no appropriation is required for expenditures.
19 Expenditures from the account shall only be used for processing appeals
20 related to the issuance of Dungeness crab--coastal fishery licenses.

21 NEW SECTION. **Sec. 11.** (1) It is unlawful for Dungeness crab--
22 coastal fishery licensees to take Dungeness crab in the waters of the
23 exclusive economic zone westward of the states of Oregon or California
24 and land crab taken in those waters into Washington state unless the
25 licensee also holds the licenses, permits, or endorsements, required by
26 Oregon or California to land crab into Oregon or California,
27 respectively.

28 (2) This section becomes effective only upon reciprocal legislation
29 being enacted by both the states of Oregon and California. For
30 purposes of this section, "exclusive economic zone" means that zone
31 defined in the federal fishery conservation and management act (16
32 U.S.C. Sec. 1802) as of the effective date of this section or as of a
33 subsequent date adopted by rule of the director.

34 NEW SECTION. **Sec. 12.** If fewer than one hundred twenty-five
35 persons are eligible for Dungeness crab--coastal fishery licenses, the
36 director may accept applications for new licenses. Additional licenses

1 issued shall be sufficient to maintain a maximum of one hundred twenty-
2 five licenses in the Washington coastal crab fishery. If additional
3 licenses are to be issued, the director shall adopt rules governing the
4 notification, application, selection, and issuance procedures for new
5 Dungeness crab--coastal fishery licenses, based on recommendations of
6 the review board established under RCW 75.30.050.

7 **Sec. 13.** RCW 75.30.050 and 1993 c 376 s 9 and 1993 c 340 s 27 are
8 each reenacted and amended to read as follows:

9 (1) The director shall appoint three-member advisory review boards
10 to hear cases as provided in RCW 75.30.060. Members shall be from:

11 (a) The salmon charter boat fishing industry in cases involving
12 salmon charter licenses or angler permits;

13 (b) The commercial salmon fishing industry in cases involving
14 commercial salmon fishery licenses;

15 (c) The commercial crab fishing industry in cases involving
16 dungeness crab--Puget Sound fishery licenses;

17 (d) The commercial herring fishery in cases involving herring
18 fishery licenses;

19 (e) The commercial Puget Sound whiting fishery in cases involving
20 whiting--Puget Sound fishery licenses;

21 (f) The commercial sea urchin fishery in cases involving sea urchin
22 dive fishery licenses;

23 (g) The commercial sea cucumber fishery in cases involving sea
24 cucumber dive fishery licenses; ((and))

25 (h) The commercial ocean pink shrimp industry (*Pandalus jordani*) in
26 cases involving ocean pink shrimp delivery licenses; and

27 (i) The commercial coastal crab industry in cases involving
28 Dungeness crab--coastal and Dungeness crab--coastal class B fishery
29 licenses.

30 (2) Members shall serve at the discretion of the director and shall
31 be reimbursed for travel expenses as provided in RCW 43.03.050,
32 43.03.060, and 43.03.065.

33 NEW SECTION. **Sec. 14.** The director may reduce the landing
34 requirements established under section 2 of this act upon the
35 recommendation of an advisory review board established under RCW
36 75.30.050, but the director may not entirely waive the landing
37 requirement. The advisory review board may recommend a reduction of

1 the landing requirement in individual cases if in the board's judgment,
2 extenuating circumstances prevented achievement of the landing
3 requirement. The director shall adopt rules governing the operation of
4 the advisory review board and defining "extenuating circumstances." In
5 defining extenuating circumstances, special consideration shall be
6 given to individuals who can provide evidence of lack of access to
7 capital based on past discrimination due to race, creed, color, sex,
8 national origin, or disability.

9 NEW SECTION. **Sec. 15.** The coastal crab industry shall prepare a
10 gear reduction plan to stabilize the coastal crab industry in
11 Washington. The industry shall submit the plan to the department of
12 fish and wildlife by June 30, 1996. The department shall evaluate the
13 plan and submit it to the legislature by December 31, 1996.

14 **Sec. 16.** RCW 75.28.125 and 1993 sp.s. c 17 s 39 and 1993 c 376 s
15 3 are each reenacted and amended to read as follows:

16 (1) Except as provided in subsection (2) of this section, it is
17 unlawful to deliver with a commercial fishing vessel food fish or
18 shellfish taken in offshore waters to a port in the state without a
19 (~~nonsalmon~~) nonlimited entry delivery license. As used in this
20 section, "food fish" does not include salmon. As used in this section,
21 "shellfish" does not include ocean pink shrimp or coastal crab. The
22 annual license fee for a (~~nonsalmon~~) nonlimited entry delivery
23 license is one hundred ten dollars for residents and two hundred
24 dollars for nonresidents.

25 (2) Holders of salmon troll fishery licenses issued under RCW
26 75.28.110, salmon delivery licenses issued under RCW 75.28.113, crab
27 pot fishery licenses issued under RCW 75.28.130, food fish trawl--Non-
28 Puget Sound fishery licenses issued under RCW 75.28.120, Dungeness
29 crab--coastal fishery licenses, ocean pink shrimp delivery licenses,
30 and shrimp trawl--Non-Puget Sound fishery licenses issued under RCW
31 75.28.130 may deliver food fish or shellfish taken in offshore waters
32 without a (~~nonsalmon~~) nonlimited entry delivery license.

33 (3) A (~~nonsalmon~~) nonlimited entry delivery license authorizes no
34 taking of food fish or shellfish from state waters.

35 **Sec. 17.** RCW 75.28.113 and 1993 sp.s. c 17 s 36 are each amended
36 to read as follows:

1 (1) It is unlawful to deliver salmon taken in offshore waters to a
2 place or port in the state without a salmon delivery license from the
3 director. The annual fee for a salmon delivery license is three
4 hundred eighty dollars for residents and six hundred eighty-five
5 dollars for nonresidents. The annual surcharge under RCW 75.50.100 is
6 one hundred dollars for each license. Holders of ~~((nonsalmon))~~
7 nonlimited entry delivery licenses issued under RCW 75.28.125 may apply
8 the ~~((nonsalmon))~~ nonlimited entry delivery license fee against the
9 salmon delivery license fee.

10 (2) Only a person who meets the qualifications established in RCW
11 75.30.120 may hold a salmon delivery license issued under this section.

12 (3) A salmon delivery license authorizes no taking of salmon or
13 other food fish or shellfish from the waters of the state.

14 (4) If the director determines that the operation of a vessel under
15 a salmon delivery license results in the depletion or destruction of
16 the state's salmon resource or the delivery into this state of salmon
17 products prohibited by law, the director may revoke the license under
18 the procedures of chapter 34.05 RCW.

19 NEW SECTION. **Sec. 18.** (1) Section 10 of this act is added to
20 chapter 75.28 RCW.

21 (2) Sections 2 through 5, 8, 11, 12, 14, and 15 of this act are
22 each added to chapter 75.30 RCW.

23 NEW SECTION. **Sec. 19.** If any provision of this act or its
24 application to any person or circumstance is held invalid, the
25 remainder of the act or the application of the provision to other
26 persons or circumstances is not affected.

27 NEW SECTION. **Sec. 20.** Sections 1 through 14 and 16 through 19 of
28 this act shall take effect January 1, 1995.

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