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**SUBSTITUTE SENATE BILL 5614**

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**State of Washington****53rd Legislature****1993 Regular Session**

**By** Senate Committee on Natural Resources (originally sponsored by  
Senators Snyder, Hargrove and Owen)

Read first time 03/03/93.

1       AN ACT Relating to non-Puget Sound coastal commercial crab fishery;  
2 amending RCW 75.28.125, 75.28.130, and 75.30.050; adding new sections  
3 to chapter 75.28 RCW; adding new sections to chapter 75.30 RCW; and  
4 creating new sections.

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

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

1        NEW SECTION.    **Sec. 2.** Unless the context clearly requires  
2 otherwise, the definitions in this section apply throughout this  
3 chapter.

4        (1) "Coastal crab" means Dungeness crab (*Cancer magister*) taken in  
5 all Washington territorial and offshore waters south of the United  
6 States-Canada boundary and west of the Bonilla-Tatoosh Line (a line  
7 from the western end of Cape Flattery to Tatoosh Island Lighthouse,  
8 then to the buoy adjacent to Duntz Rock, then in a straight line to  
9 Bonilla Point of Vancouver Island), Grays Harbor, Willapa Bay, and the  
10 Columbia river.

11        (2) "Hull length" means the length of a ship's hull as measured  
12 from extreme points on the stern to the bow, excluding extensions such  
13 as bowsprits or stern extensions, on a horizontal plane at right angles  
14 to the plane. Hull length documentation shall be by United States  
15 coast guard documentation or marine survey, or for vessels that do not  
16 require United States coast guard documentation by manufacturer's  
17 specifications or marine survey.

18        (3) "Comparable hull length" means hull length to within one foot  
19 difference.

20        **Sec. 3.** RCW 75.28.125 and 1989 c 316 s 7 are each amended to read  
21 as follows:

22        A delivery license is required to deliver shellfish other than  
23 coastal crab or food fish other than salmon taken in offshore waters  
24 and delivered to a port in the state. Unless adjusted by the director  
25 pursuant to the director's authority granted in RCW 75.28.065, the  
26 annual license fee is fifty dollars for residents and one hundred  
27 dollars for nonresidents. Licenses issued under RCW 75.28.113 (salmon  
28 delivery ((license))), RCW 75.28.130(4) (coastal crab pot((, other than  
29 ~~Puget Sound))~~), or RCW 75.28.140(2) (trawl, other than Puget Sound)  
30 shall include a delivery license.

31        **Sec. 4.** RCW 75.28.130 and 1989 c 316 s 8 are each amended to read  
32 as follows:

33        The following commercial fishing licenses are required for the  
34 licensee to use the specified gear to fish for shellfish in state  
35 waters. Separate licenses are required for the licensee to take  
36 Dungeness crab in both Puget Sound waters and coastal waters, as these  
37 waters are defined by rule of the director. Unless adjusted by the

1 director pursuant to the director's authority granted in RCW 75.28.065,  
2 the annual license fees are:

3	Gear	Resident Fee	Nonresident Fee
5	(1) Ring net	\$50	\$100
6	(2) Shellfish pot(( <del>s</del> 7 <del>(excluding)</del> ) <u>other than</u> 8       crab))	\$50	\$100
9	(3) <u>Puget Sound</u> crab pot(( <del>s</del> 10 <del>(Puget Sound)</del> ))	\$50	\$100
11	(4) <u>Coastal</u> crab pot(( <del>s</del> 12 <del>(other than Puget Sound)</del> ))	\$200	\$400
13	(5) Shellfish diver 14       ((( <del>excluding</del> ) <u>other</u> 15 <u>than geoduck</u> clams))	\$50	\$100
16	(6) Squid gear, all types	\$100	\$200
17	(7) Ghost shrimp gear	\$100	\$200
18	(8) (( <del>Commercial</del> )) <u>Razor</u> 19       clam (( <del>license</del> )) <u>gear</u>	\$50	\$100
20	(9) Geoduck diver (( <del>license</del> ))	\$100	\$200
21	(10) Other shellfish gear	\$100	\$200

22       NEW SECTION.   **Sec. 5.** A coastal crab pot license is required to  
23 deliver coastal crab taken in offshore waters and delivered to a port  
24 in the state.

25       NEW SECTION.   **Sec. 6.** Coastal crab pot licenses issued under this  
26 section are not transferable from one owner to another owner, except  
27 from parent to child, or from spouse to spouse during marriage or as a  
28 result of marriage dissolution, or upon the death of the owner. This  
29 restriction applies to all changes in the vessel owner's name on the  
30 license, including (1) changes during the license year, and (2) changes  
31 during the license renewal process between years. This restriction  
32 does not prevent changes in vessel operator or transfers between  
33 vessels when the vessel owner remains unchanged. Upon request of a  
34 vessel owner, the director may issue a temporary permit to allow the  
35 vessel owner to use the license on a leased or rented vessel.

1        NEW SECTION.    **Sec. 7.** Unless the context clearly requires  
2 otherwise, as used in this chapter, "coastal crab" means Dungeness crab  
3 (Cancer magister) taken in all Washington territorial and offshore  
4 waters south of the United States-Canada boundary and west of the  
5 Bonilla-Tatoosh Line (a line from the western end of Cape Flattery to  
6 Tatoosh Island Lighthouse, then to the buoy adjacent to Duntz Rock,  
7 then in a straight line to Bonilla Point of Vancouver Island), Grays  
8 Harbor, Willapa Bay, and the Columbia river.

9        NEW SECTION.    **Sec. 8.** (1) Effective January 1, 1994, it is  
10 unlawful to fish for coastal crab in Washington state waters or deliver  
11 coastal crab to a port in the state without a coastal crab pot license.  
12 A coastal crab pot license is not required to take other species of  
13 crab, including red rock crab (Cancer productus), from waters  
14 containing coastal crab.

15        (2) A coastal crab pot license shall only be issued to a vessel  
16 that, during two of the following three qualifying periods:

17           December 1, 1988, through September 15, 1989;

18           December 1, 1989, through September 15, 1990; and

19           December 1, 1990, through September 15, 1991;

20        (a) Showed historical participation in the coastal crab fishery by  
21 having held one of the following:

22           (i) Crab pots license or crab pots (other than Puget Sound)  
23 license, issued under RCW 78.25.130;

24           (ii) Delivery permit or delivery license, issued under RCW  
25 75.28.125;

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

27           (iv) Salmon delivery permit or salmon delivery license, issued  
28 under RCW 75.28.113;

29           (v) Trawl license and trawl (other than Puget Sound) license,  
30 issued under RCW 75.28.140;

31        (b) Can prove active historical participation in the coastal crab  
32 fishery as evidenced by having made a minimum of eight crab landings  
33 per season in at least two of the three qualifying seasons, which  
34 landings total a minimum of five thousand pounds of crab in each  
35 qualifying season, taken in coastal and offshore waters as documented  
36 by valid Washington state shellfish receiving tickets. For purposes of  
37 this section, "crab taken in coastal and offshore waters" means crab  
38 taken in Washington state department of fisheries marine fish/shellfish

1 management and catch reporting areas 58B, 59A, 59B, 60A, 60B, 60C, 60D,  
2 61, or 62, as defined in WAC 220-20-410; and

3 (c) Can prove continuous participation in the coastal crab fishery  
4 by having held one or more of the licenses listed in (a) of this  
5 subsection each calendar year from 1990 through 1993.

6 (3) After January 1, 1994, it is unlawful for vessels licensed  
7 under the laws of this state to take dungeness crab (*Cancer magister*)  
8 in waters of the federal exclusive economic zone, or to land dungeness  
9 crab in Washington that have been taken in waters of the federal  
10 exclusive economic zone, without the licenses or endorsements required  
11 by the state whose territorial waters are contiguous to that portion of  
12 the federal exclusive economic zone.

13       **NEW SECTION.**   **Sec. 9.** An applicant who can show historical  
14 participation under section 8(2) of this act but not satisfying the  
15 continuous participation requirement of section 8(2)(c) of this act  
16 shall be issued a coastal crab pot license if:

17       (1) The owner can prove that the owner was in the process on  
18 September 15, 1991, of constructing a vessel for the purpose of coastal  
19 crab fishing. For purposes of this section, "construction" means  
20 having the keel laid, and "for the purpose of coastal crab fishing"  
21 means the vessel is designed to retrieve crab pots mechanically and has  
22 a live well. A coastal crab pot license issued to a vessel under  
23 construction is not renewable after December 31, 1994, unless the  
24 vessel lands five thousand pounds of coastal crab into a Washington  
25 state port before December 31, 1994; or

26       (2) The applicant's vessel is a replacement for a vessel that is  
27 otherwise eligible for a coastal crab pot license, in which case the  
28 landing and licensing history shall follow the replacement vessel, and  
29 only the replacement vessel is eligible for a coastal crab pot license.

30       **NEW SECTION.**   **Sec. 10.** (1) An Oregon resident who can show  
31 historical participation in the Washington state coastal crab fishery  
32 by having held a nonresident crab pots (other than Puget Sound) license  
33 issued under RCW 75.28.140 each year from 1990 through 1993, and who  
34 has delivered a minimum of five thousand pounds of crab into Oregon  
35 during any two of the three qualifying periods as provided in section  
36 8(2) of this act as evidenced by valid Oregon fish receiving tickets,  
37 shall be issued a nonresident coastal crab pot license valid for

1 fishing in Washington state waters north from the Oregon/Washington  
2 boundary to United States latitude forty-six degrees thirty minutes  
3 north. Such license shall be issued upon application and submission of  
4 proof of delivery.

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

10       **NEW SECTION.** **Sec. 11.** After December 31, 1994, a coastal crab pot  
11 license may only be issued to a vessel that held the license in 1994,  
12 and each year thereafter. If the license is transferred to another  
13 vessel, the license history shall also be transferred to the transferee  
14 vessel.

15       Where the failure to hold a license the previous year was the  
16 result of license suspension, the vessel may qualify by establishing  
17 that the vessel held a coastal crab pot license in the last year in  
18 which the license was not suspended.

19       **NEW SECTION.** **Sec. 12.** If fewer than one hundred twenty-five  
20 vessels are eligible for coastal crab pot licenses, the director shall  
21 accept applications for new licenses. The director shall determine by  
22 random selection the successful applicants for the additional licenses.  
23 The number of additional licenses issued shall be sufficient to  
24 maintain one hundred twenty-five vessels in the Washington coastal crab  
25 fishery. The director shall adopt rules governing the notification,  
26 application, selection, and issuance procedures for new coastal crab  
27 licenses, based on recommendations of a board of review established  
28 under RCW 75.30.050.

29       **Sec. 13.** RCW 75.30.050 and 1990 c 61 s 3 are each amended to read  
30 as follows:

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

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

35           (b) The commercial salmon fishing industry in cases involving  
36 commercial salmon licenses;

1       (c) The commercial crab fishing industry in cases involving Puget  
2 Sound crab license endorsements;

3       (d) The commercial herring fishery in cases involving herring  
4 validations;

5       (e) The commercial Puget Sound whiting fishery in cases involving  
6 Puget Sound whiting license endorsements;

7       (f) The commercial sea urchin fishery in cases involving sea urchin  
8 endorsements to shellfish diver licenses; ((and))

9       (g) The commercial sea cucumber fishery in cases involving sea  
10 cucumber endorsements to shellfish diver licenses; and

11       (h) The commercial coastal crab industry in cases involving coastal  
12 crab pot licenses.

13       (2) Members shall serve at the discretion of the director and shall  
14 be reimbursed for travel expenses as provided in RCW 43.03.050 and  
15 43.03.060.

16       NEW SECTION.   **Sec. 14.**   The director may reduce the landing  
17 requirement established under section 6 of this act upon the  
18 recommendation of an advisory review board established under RCW  
19 75.30.050, but the director may not entirely waive the landing  
20 requirement. The advisory review board may recommend a reduction of  
21 the landing requirement in individual cases if in the board's judgment,  
22 extenuating circumstances prevented achievement of the landing  
23 requirement. The director shall adopt rules governing the operation of  
24 the advisory review board and defining "extenuating circumstances."

25       NEW SECTION.   **Sec. 15.**   The department of fisheries shall prepare  
26 a gear reduction plan to stabilize the coastal crab industry landing  
27 crab in Washington. The department shall submit the plan to the  
28 legislature by December 31, 1994.

29       NEW SECTION.   **Sec. 16.**   This act is null and void if by January 1,  
30 1994, California and Oregon have not enacted legislation prohibiting  
31 vessels licensed under their laws from taking dungeness crab (*Cancer*  
32 *magister*) in waters of the federal exclusive economic zone without the  
33 licenses or endorsements required by the state whose territorial waters  
34 are contiguous to that portion of the federal exclusive economic zone.  
35 This act is null and void if by January 1, 1994, California and Oregon  
36 have not enacted legislation prohibiting vessels licensed under their

1 laws from landing dungeness crab (*Cancer magister*) in their states that  
2 have been taken in the federal exclusive economic zone without the  
3 licenses or endorsements required by the state whose territorial waters  
4 are contiguous to that portion of the federal exclusive economic zone.

5        NEW SECTION.    **Sec. 17.**    (1) Sections 2, 5, and 6 of this act are  
6 each added to chapter 75.28 RCW.

7        (2) Sections 7 through 12 and 14 of this act are each added to  
8 chapter 75.30 RCW.

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