

HOUSE BILL REPORT

SHB 2593

As Passed Legislature

Title: An act relating to creating tools to enhance the department of fish and wildlife's ability to manage shellfish resources.

Brief Description: Concerning the department of fish and wildlife's ability to manage shellfish resources.

Sponsors: House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Rolfes, Morris, Upthegrove, Williams, Liias, White and Nelson).

Brief History:

Committee Activity:

Agriculture & Natural Resources: 1/19/10, 1/29/10 [DPS];
General Government Appropriations: 2/4/10 [DPS(AGNR)].

Floor Activity:

Passed House: 2/11/10, 97-0.
Senate Amended.
Passed Senate: 3/2/10, 42-3.
House Concurred.
Passed House: 3/6/10, 63-31.
Passed Legislature.

Brief Summary of Substitute Bill

- Creates two new enforcement mechanisms for individuals who use non-compliant shellfish gear or are found in possession of non-compliant shellfish gear while on a vessel.
- Provides discretionary authority for the Department of Fish and Wildlife to expand the coastal commercial Dungeness crab pot removal permit to the Puget Sound.
- Expands, temporarily, the valid uses of assessments collected on recreational Puget Sound crabbing endorsements to allow the Department of Fish and Wildlife to use a portion of the revenue for the removal and disposal of derelict shellfish pots.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

- Extends the expiration of the fees and taxes used to retire the Sea Cucumber and Sea Urchin Dive Fishery Licenses until 2013 or until the number of licenses is reduced to 20.
- Permits certain vessels in the commercial coastal Dungeness crab fishery to be designated for the fishery annually instead of once every two years.

HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Blake, Chair; Ormsby, Vice Chair; Chandler, Ranking Minority Member; Smith, Assistant Ranking Minority Member; Jacks, Kretz, Liias, McCoy, Nelson, Pearson, Rolfes, Van De Wege and Warnick.

Staff: Jason Callahan (786-7117).

HOUSE COMMITTEE ON GENERAL GOVERNMENT APPROPRIATIONS

Majority Report: The substitute bill by Committee on Agriculture & Natural Resources be substituted therefor and the substitute bill do pass. Signed by 15 members: Representatives Darneille, Chair; Takko, Vice Chair; McCune, Ranking Minority Member; Armstrong, Assistant Ranking Minority Member; Blake, Crouse, Dunshee, Hudgins, Kenney, Klippert, Pedersen, Sells, Short, Van De Wege and Williams.

Staff: Melissa Palmer (786-7388).

Background:

Enforcement of Shellfish Pot Escapement Design Specifications.

The Fish and Wildlife Commission has adopted an administrative rule that requires all shellfish pots to be designed in a manner that allows for the escapement of any captured animals after a period of time. This rule applies to both the commercial and recreational crab, shrimp, and crawfish fisheries.

A person who violates the rule on shellfish pot design in a recreational fishery can be charged with a misdemeanor. A person who violated the rule in a commercial fishery can be charged with a gross misdemeanor. For both fisheries, an enforcement officer may only cite the possessor of an out-of-compliance shellfish pot if the fisher is witnessed actually taking shellfish, or actively fishing, with the non-compliant pot.

A misdemeanor is punishable by imprisonment in the county jail for a maximum term fixed by the court of not more than 90 days, or by a fine in an amount fixed by the court of not more than \$1,000, or both imprisonment and fine. A gross misdemeanor is punishable by imprisonment in the county jail for a maximum term fixed by the court of not more than one year, or by a fine in an amount fixed by the court of not more than \$5,000, or by both imprisonment and fine.

Coastal Dungeness Crab Pot Removal Permit.

A licensed fisher in the coastal commercial Dungeness crab fishery may apply to the Washington Department of Fish and Wildlife (WDFW) for a crab pot removal permit. This permit allows the holder to lawfully enter the fishing grounds after the close of the season and retrieve any crab pots that were left behind.

This permit is not available in any geographic region of the state other than the area covered by the coastal Dungeness crab commercial fishery. The permit only authorizes the removal of commercial crab pots and not crab pots set for recreational purposes.

Derelict Fishing Gear.

The WDFW, in partnership with the Northwest Straits Commission and the Department of Natural Resources, maintains guidelines for the safe removal and disposal of derelict fishing gear and a database of known locations of derelict fishing gear. Any person who loses or abandons fishing gear is encouraged to report the loss to the WDFW within 48 hours.

Sea Cucumber and Sea Urchin Dive Licenses.

A closed fishery is a fishery with a set number of licenses held by defined participants. The commercial sea urchin and sea cucumber fisheries have been closed since the year 2000. The WDFW is authorized to issue licenses for these fisheries only to individuals who held a license for the fishery in the previous year. The issuance of a license to a new applicant has been prohibited since 2000.

Along with closing the sea urchin and sea cucumber commercial fisheries, the WDFW manages a program to buyback, or retire, licenses from qualified participants in these fisheries. The WDFW is required to retire these licenses if the license holder voluntarily agrees to not renew his or her license the following year. The WDFW must retire licenses until the number of fishers participating in either the sea cucumber or sea urchin fishery drops to 25. When that number is achieved, the money collected from the remaining licenses must be used for management and enforcement in the sea urchin or sea cucumber fishery.

Through the 2010 season, each license renewal for either fishery is assessed an annual fee of \$100. In addition, a fee of either \$500 or \$2,500 is assessed if the license holder either designates a different person, known as an alternate operator, to fish under his or her license, or if the license holder transfers the license outright to another person.

The two dive accounts also receive revenue from specific excise taxes. For sea cucumbers and sea urchins, the commercial fishers are required to pay in tax the value of their harvest multiplied by 4.6 percent, multiplied by the additional tax of 7 percent.

Coastal Crab Vessel Designation Restrictions.

Participants in the commercial coastal Dungeness crab fishery must designate a specific vessel that will be used while fishing. Commercial crab fishers may not designate a vessel that has a length in excess of 96 feet.

Once a vessel is designated, the fisher can only change the designation to a different vessel without restriction if the difference in hull lengths of the two vessels is less than one foot. A fisher may only designate a different vessel for the fishery with a hull length longer than one foot as compared to the original designated vessel once every two years.

Summary of Substitute Bill:

Enforcement of Shellfish Pot Escapement Design Specifications.

Two new enforcement mechanisms are created for individuals who use non-compliance shellfish gear or are found in possession of non-compliant shellfish gear while on a vessel. The penalty for using or possessing non-compliance shellfish gear for personal use purposes is a misdemeanor and the penalty for doing the same for commercial purposes is a gross misdemeanor.

Coastal Dungeness Crab Pot Removal Permit.

The WDFW is given the authority to expand the coastal commercial Dungeness crab pot removal permit to the Puget Sound. If an expansion into Puget Sound is authorized, the WDFW may limit the program as necessary given the conditions present in Puget Sound. However, participants in a Puget Sound shellfish pot removal permit system would be able to collect recreational shellfish pots as well as commercial shellfish pots.

Derelict Gear.

A distinction is made between derelict fishing gear and derelict shellfish pots, with corresponding changes made for permitting and reporting of derelict gear. The WDFW is authorized to update their derelict fishing gear removal guidelines.

The authorized uses of assessments collected on recreational Puget Sound crabbing endorsements are expanded to allow the WDFW to use a portion of the revenue for the removal and disposal of derelict shellfish pots. The expanded authorization remains in effect until June 30, 2011.

By no later than December 31, 2010, the WDFW must deliver findings and recommendations to the Legislature regarding various shellfish management topics. These topics include the scope of the derelict gear problem and the cost of remedying that problem, barriers to recovering derelict gear, and possible changes to the funding structure for derelict gear removal and crab resource management.

Sea Cucumber and Sea Urchin Dive Licenses.

The Sea Cucumber dive fishery license's surcharge is extended until 2013 or until the number of licenses is reduced to 20, whichever occurs first. The Director of the WDFW, or the Director's designee, must notify the Department of Revenue within 30 days when the number of licenses is reduced to 20.

The Sea Urchin dive fishery license's surcharge is extended until 2013 or until the number of licenses is reduced to 20, whichever occurs first. The Director, or the Director's designee must notify the Department of Revenue within 30 days when the number of licenses is reduced to 20.

The excise tax on commercial possession of enhanced food fish is extended until 2013 for both sea cucumbers and sea urchins.

Coastal Crab Vessel Designation Restrictions.

Participants in the commercial coastal Dungeness crab fishery are permitted to designate a vessel with a hull length difference of greater than one foot annually instead of once every two years.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony (Agriculture & Natural Resources):

(In support) The bill has three separate, but related, ideas for reducing the impact of abandoned crab pots. Derelict and abandoned crab pots continue to trap and kill sea life long after anyone will return to claim and use the captured animals. No one benefits from the ghost fishing and the ecosystem suffers damages.

Many partners work on the removal of crab pots and derelict nets. The federal government has provided economic stimulus money until the end of 2010 to remove derelict gear, but those efforts have been focused on fishing nets. Removing pots is very expensive since it requires the use of commercial divers.

Over 12,000 crab pots are lost each year which can continue to capture animals for over a year. Each abandoned pot catches on average 30 crabs and kills 21 crabs. Of the lost pots, 52 percent are from the recreational fishery and 48 percent are from the commercial fishery.

(In support with concerns) The existing crab pot removal permit for the coastal fishery works because of the unique elements of that fishery. The landscape of the Puget Sound presents difficulties not present on the coast. The fisheries in the Puget Sound are closer both in space and time, there are many more ports in which fishers enter and exit the water, and there are more user groups in the water at any one time. The Puget Sound would require a more robust crab pot removal program that would necessitate a great deal of coordination between the WDFW and the permit holder.

(Opposed) None.

Staff Summary of Public Testimony (General Government Appropriations):

(In support) This is the most significant bill dealing with derelict shellfish and crab gear in the Puget Sound in the last decade. There are roughly 12,000 pots and crab gear lost in the Puget Sound. Getting derelict gear out of the Puget Sound is an important part of the recovery process. There is commitment to implement the bill within existing resources.

(Opposed) None.

Persons Testifying (Agriculture & Natural Resources): (In support) Representative Rolfes, prime sponsor; and Ginny Broadhurst, Northwest Straits Commission.

(In support with concerns) Mike Cenci and Rich Childers, Washington Department of Fish and Wildlife.

Persons Testifying (General Government Appropriations): Tom Davis, Washington Department of Fish and Wildlife.

Persons Signed In To Testify But Not Testifying (Agriculture & Natural Resources): None.

Persons Signed In To Testify But Not Testifying (General Government Appropriations): None.