H-1714.1

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**SUBSTITUTE HOUSE BILL 1610**

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**State of Washington 66th Legislature 2019 Regular Session**

**By** House Rural Development, Agriculture, & Natural Resources (originally sponsored by Representatives Lekanoff, Walsh, Blake, Chapman, Doglio, Shewmake, Peterson, Ortiz-Self, Pollet, and Leavitt)

AN ACT Relating to compensation for lost or damaged commercial and treaty fishing gear; adding a new chapter to Title 77 RCW; and providing an expiration date.

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

NEW SECTION. **Sec.**  The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Account" means the commercial and treaty fisher's gear compensation account created in section 2 of this act.

(2) "Claim" means an application to the department for compensation under this chapter.

(3) "Commercial fisher" means any person who holds a current commercial fishing license from the department.

(4) "Compensation" means a cash payment, materials, or service.

(5) "Fishing gear" means any equipment, whether or not attached to a vessel, that is used in the handling or harvesting of fish and shellfish.

(6) "Treaty fisher" means any person who is a member of a federally recognized Indian tribe and who harvests fish or shellfish in Washington pursuant to an Indian treaty.

NEW SECTION. **Sec.**  The commercial and treaty fisher's gear compensation account is created in the custody of the state treasurer. In addition to moneys appropriated or transferred into the account, the department may deposit into the account any grants, gifts, or donations to the state for the purposes of section 3 of this act. Expenditures from the account may be used only for providing compensation to commercial and treaty fishers for lost or damaged fishing gear, as provided in section 3 of this act. Only the director of the department of fish and wildlife or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

NEW SECTION. **Sec.**  (1) The commission shall adopt rules to establish a commercial and treaty fisher's gear compensation program for commercial and treaty fishers whose fishing gear has been lost or damaged as a result of contact with other vessels in the marine waters of the state east of a line extending due north from the northernmost point of Tatoosh Island.

(2) Rules adopted by the commission pursuant to this section are subject to the following requirements:

(a) Compensation from the account is not available for loss of or damage to fishing gear that, at the time of loss or damage, was located within a shipping channel or other established routes for vessels such as Washington state ferries, tugs, commercial vessels, or log booms, a general anchorage area, or a precautionary area, as established on a navigational chart published by the national oceanic and atmospheric administration;

(b) In order to be eligible for compensation from the account, the commercial or treaty fisher must be a Washington resident, must have a claim of at least two hundred seventy-five dollars, and must be an enrolled participant in the crab gear damage and loss pilot program created in section 4 of this act;

(c) Compensation from the account to a commercial or treaty fisher is limited to the actual purchase cost of the fishing gear for lost fishing gear, or the actual repair cost of the fishing gear for damaged fishing gear. The actual purchase cost or actual repair cost must be established by receipts, estimates of costs of repair, or sworn affidavit;

(d) In order to be eligible for compensation from the account, the commercial or treaty fisher must provide the following information:

(i) Complete copies of all relevant licenses;

(ii) Complete copies of all vessel registration information;

(iii) Location, via latitude and longitude coordinates obtained from a global positioning system device affixed to the fishing gear or via a chart marked with the location of the incident, of the fishing gear at the time of loss or damage;

(iv) A complete description of all lost or damaged fishing gear, including photographs of damaged gear if available;

(v) To the extent known, a complete description of the incident giving rise to the loss or damage, including the name and other identifying information of the vessel that caused the loss or damage;

(vi) Receipts, estimates of costs of repair, or sworn affidavits establishing the actual purchase cost or actual repair cost of lost or damaged fishing gear;

(e) Claims for compensation from the account must be filed with the department no later than thirty days after the date that the commercial or treaty fisher first became aware of the loss or damage;

(f) The department shall acknowledge receipt of a claim for loss or damage within fifteen days of receiving the claim;

(g) Compensation from the account is not available for loss of or damage to fishing gear that is covered by a policy of insurance.

(3) In administering the commercial and treaty fisher's gear compensation program, the department shall pay eligible claims at the conclusion of the calendar year on a proportional basis, according to available funds.

(4) A commercial or treaty fisher who files a claim under this section may appeal the decision of the department pursuant to rules adopted by the commission if the claim:

(a) Is denied; or

(b) Is disputed by the commercial or treaty fisher and the commercial or treaty fisher disagrees with the amount of compensation determined by the department.

NEW SECTION. **Sec.**  (1) The department of fish and wildlife, in consultation with the department of commerce and the department of natural resources, is directed to conduct a study of crab fishing gear belonging to commercial and treaty fishers that has been lost or damaged as a result of contact with other vessels in the marine waters of the state east of a line extending due north from the northernmost point of Tatoosh Island.

(2) The elements to be studied include, but are not limited to, the following:

(a) The types and value of crab fishing gear lost or damaged as a result of contact with other vessels;

(b) The frequency of crab fishing gear loss and damage as a result of contact with other vessels;

(c) The dates, times, and locations of crab fishing gear loss and damage; and

(d) The vessels, and types of vessels, contributing to crab fishing gear loss and damage.

(3) The department shall, as part of the study, establish a pilot program in which the department coordinates with willing fishers to track potential crab fishing gear damage and loss using global positioning system technology. In establishing the geographic scope of the pilot project, the department should select locations that are most likely to provide a comprehensive understanding of the issue of crab fishing gear loss and damage. As part of the pilot program, and subject to the availability of amounts appropriated for this specific purpose, the department may furnish wireless transponders to be placed on crab fishing gear in order to assist in the collection of data related to potential loss and damage.

(4) A report that includes the department's findings, as well as the department's recommendations for actions to reduce crab fishing gear loss and damage, must be completed by October 31, 2021, and submitted in accordance with RCW 43.01.036 to the standing committees of the house of representatives and the senate with jurisdiction over fisheries, water quality, and aquatic lands.

(5) This section expires December 31, 2021.

NEW SECTION. **Sec.**  Sections 1 through 4 of this act constitute a new chapter in Title 77 RCW.

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