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SENATE BILL 6724

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State of Washington

55th Legislature

1998 Regular Session

By Senators Spanel and Hargrove

Read first time 01/29/98. Referred to Committee on Natural Resources & Parks.

1 AN ACT Relating to sea urchin and sea cucumber dive fishery  
2 licenses; amending RCW 75.28.046; adding new sections to chapter 75.30  
3 RCW; creating a new section; and repealing RCW 75.30.210 and 75.30.250.

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

5 NEW SECTION. **Sec. 1.** The legislature recognizes the federal court  
6 decision on shellfish, *U.S. v. Washington*, No. 9213, Subproceeding 89-  
7 3, has placed undue economic hardship on licensed sea urchin and sea  
8 cucumber fishers. That court decision has reduced the state non-Indian  
9 allocation of harvest to fifty percent of prior harvest amounts. The  
10 legislature finds that it is in the best interest of the state and the  
11 sea urchin industry to establish a license retirement system based on  
12 transfer fees and license surcharges.

13 NEW SECTION. **Sec. 2.** A new section is added to chapter 75.30 RCW  
14 to read as follows:

15 (1) A sea urchin dive fishery license is required to take sea  
16 urchins for commercial purposes. In addition to other rules of the  
17 department regarding harvest of sea urchins, the license allows only  
18 one diver in the water at any time during the sea urchin harvesting

1 operation. Two sea urchin dive fishery licenses may be registered to  
2 the same vessel allowing two divers in the water at the same time from  
3 that vessel. The holder of a sea urchin dive fishery license must be  
4 on board the harvest vessel or in the water during the sea urchin  
5 harvesting operation and landing of sea urchins.

6 (2) After December 31, 1998, no alternate operator licenses may be  
7 designated for the sea urchin dive fishery licenses except as follows:

8 (a) If the sea urchin dive fishery license holder becomes  
9 incapacitated and unable to be on board the harvest vessel for medical  
10 reasons, then one alternate operator license at a time per sea urchin  
11 dive fishery license may be issued. The application to designate an  
12 alternate operator under this subsection must be accompanied by a  
13 letter from a licensed physician stating why and during which dates the  
14 license holder cannot be aboard the harvest vessel. A license holder  
15 may designate an alternate operator under this subsection for no more  
16 than two years.

17 (b) If upon the death of a sea urchin dive fishery license holder  
18 the license is transferred to a living child or a living spouse, then  
19 the child or spouse may designate one alternate operator license at a  
20 time per sea urchin dive fishery license for a maximum period of two  
21 years after the death of the original license holder.

22 (3) The director shall issue no new sea urchin dive fishery  
23 licenses except pursuant to rules adopted under subsection (7) of this  
24 section. After January 1, 1999, the director shall renew existing  
25 licenses only to a natural person who held the license at the end of  
26 the prior year. If a license is not held by a natural person at the  
27 end of 1998, then it shall be unrenovable thereafter. If a natural  
28 person failed to hold a license at the end of a prior year solely  
29 because of suspension or revocation of privileges by the department or  
30 a court, the director shall renew the license at the end of the  
31 suspension or revocation but before the end of the year.

32 (4) Sea urchin dive fishery licenses may be transferred only as  
33 provided in this subsection and by complying with forms provided by the  
34 department.

35 (a) From the effective date of this act through December 31, 1998,  
36 a license holder may transfer a license to any natural person by paying  
37 a two hundred fifty dollar transfer fee to the department.

1 (b) After December 31, 1998, a license may be transferred from a  
2 license holder to any natural person by paying a five hundred dollar  
3 transfer fee to the department.

4 (c) Moneys collected under this subsection shall be placed in the  
5 sea urchin account created under section 4 of this act.

6 (5) The department may issue an order declaring that a sea urchin  
7 license is void if the license is transferred without complying with  
8 subsection (4) of this section. For purposes of this subsection, a  
9 license may be deemed transferred and void if any person other than the  
10 named license holder has any legal, contractual, or equitable right to  
11 be the beneficial owner, user, or alternate operator of such a license.  
12 However, any license holder subject to a contract or lease entered  
13 before the effective date of this act may comply with subsection (4)(a)  
14 of this section to avoid such an order. A license holder subject to an  
15 order declaring a license void may file an appeal with the department  
16 within thirty days after service of the order. The department will  
17 review the order with an adjudicative proceeding under chapter 34.05  
18 RCW, the administrative procedure act.

19 (6) A natural person may hold no more than two sea urchin dive  
20 fishery licenses.

21 (7) If fewer than twenty-five sea urchin dive fishery licenses  
22 exist, the director may adopt rules that provide for issuance of new  
23 licenses up to a total of twenty-five. These rules shall protect the  
24 public interest in the sea urchin resource and define the fee and  
25 issuance criteria.

26 (8) For all sea urchin dive fishery licenses issued from January 1,  
27 1999, through December 31, 2004, there is a surcharge of one hundred  
28 dollars that must be deposited in the sea urchin dive fishery account.

29 NEW SECTION. **Sec. 3.** A new section is added to chapter 75.30 RCW  
30 to read as follows:

31 (1) A sea cucumber dive fishery license is required to take sea  
32 cucumbers for commercial purposes. In addition to other rules of the  
33 department regarding harvest of sea cucumbers, the license allows only  
34 one diver in the water at any time during the sea cucumber harvesting  
35 operation. Two sea cucumber dive fishery licenses may be registered to  
36 the same vessel allowing two divers in the water at the same time from  
37 that vessel. The holder of a sea cucumber dive fishery license must be

1 on board the harvest vessel or in the water during the sea cucumber  
2 harvesting operation and landing of sea cucumbers.

3 (2) After December 31, 1998, no alternate operator licenses may be  
4 designated for the sea cucumber dive fishery licenses except as  
5 follows:

6 (a) If the sea cucumber dive fishery license holder becomes  
7 incapacitated and unable to be on board the harvest vessel for medical  
8 reasons, then one alternate operator license at a time per sea cucumber  
9 dive fishery license may be issued. The application to designate an  
10 alternate operator under this subsection must be accompanied by a  
11 letter from a licensed physician stating why and during which dates the  
12 license holder cannot be aboard the harvest vessel. A license holder  
13 may designate an alternate operator under this subsection for no more  
14 than two years.

15 (b) If upon the death of a license holder the sea cucumber dive  
16 fishery license is transferred to a living child or a living spouse,  
17 then the child or spouse may designate one alternate operator license  
18 at a time per sea cucumber dive fishery license for a maximum period of  
19 two years after the death of the original license holder.

20 (3) The director shall issue no new sea cucumber dive fishery  
21 licenses except pursuant to rules adopted under subsection (7) of this  
22 section. After January 1, 1999, the director shall renew existing  
23 licenses only to a natural person who held the license at the end of  
24 the prior year. If a license is not held by a natural person at the  
25 end of 1998, then it shall be unrenovable thereafter. If a natural  
26 person failed to hold a license at the end of a prior year solely  
27 because of suspension or revocation of privileges by the department or  
28 a court, the director shall renew the license at the end of the  
29 suspension or revocation but before the end of the year.

30 (4) Sea cucumber dive fishery licenses may be transferred only as  
31 provided in this subsection and by complying with forms provided by the  
32 department.

33 (a) From the effective date of this act through December 31, 1998,  
34 a license holder may transfer a license to any natural person by paying  
35 a two hundred fifty dollar transfer fee to the department.

36 (b) After December 31, 1998, a license may be transferred from a  
37 license holder to any natural person by paying a five hundred dollar  
38 transfer fee to the department.

1 (c) Moneys collected under this subsection shall be placed in the  
2 sea cucumber account created under section 4 of this act.

3 (5) The department may issue an order declaring that a sea cucumber  
4 license is void if the license is transferred without complying with  
5 subsection (4) of this section. For purposes of this subsection, a  
6 license may be deemed transferred and void if any person other than the  
7 named license holder has any legal, contractual, or equitable right to  
8 be the beneficial owner, user, or alternate operator of such license.  
9 However, any license holder subject to a contract or lease entered  
10 before the effective date of this act may comply with subsection (4)(a)  
11 of this section to avoid such an order. A license holder subject to an  
12 order declaring a license void may file an appeal with the department  
13 within thirty days after service of the order. The department will  
14 review the order with an adjudicative proceeding under chapter 34.05  
15 RCW, the administrative procedure act.

16 (6) A natural person may hold no more than two sea cucumber dive  
17 fishery licenses.

18 (7) If fewer than twenty-five sea cucumber dive fishery licenses  
19 exist, the director may adopt rules that provide for issuance of new  
20 licenses up to a total of twenty-five. These rules shall protect the  
21 public interest in the sea cucumber resource and define the fee and  
22 issuance criteria.

23 (8) For all sea cucumber dive fishery licenses issued from January  
24 1, 1999, through December 31, 2004, there is a surcharge of one hundred  
25 dollars that must be deposited in the sea cucumber dive fishery  
26 account.

27 NEW SECTION. **Sec. 4.** A new section is added to chapter 75.30 RCW  
28 to read as follows:

29 The sea urchin dive fishery account is created in the custody of  
30 the state treasurer. All receipts from revenues from the transfer of  
31 fees imposed under section 2(4) of this act and the surcharge imposed  
32 under section 2(8) of this act must be deposited into the account.  
33 Expenditures from the account may be used only for sea urchin license  
34 retirement activities and sea urchin management and enforcement  
35 activities as provided under section 6 of this act. Only the director  
36 of fish and wildlife or the director's designee may authorize  
37 expenditures from the account. The account is subject to allotment

1 procedures under chapter 43.88 RCW, but an appropriation is not  
2 required for expenditures.

3 NEW SECTION. **Sec. 5.** A new section is added to chapter 75.30 RCW  
4 to read as follows:

5 The sea cucumber dive fishery account is created in the custody of  
6 the state treasurer. All receipts from the transfer of fees imposed  
7 under section 3(4) of this act and the surcharge imposed under section  
8 3(8) of this act must be deposited into the account. Expenditures from  
9 the account may be used only for sea cucumber license retirement  
10 activities and sea cucumber management and enforcement activities as  
11 provided under section 6 of this act. Only the director of fish and  
12 wildlife or the director's designee may authorize expenditures from the  
13 account. The account is subject to allotment procedures under chapter  
14 43.88 RCW, but an appropriation is not required for expenditures.

15 NEW SECTION. **Sec. 6.** A new section is added to chapter 75.30 RCW  
16 to read as follows:

17 Expenditures from the sea urchin and sea cucumber dive fisheries  
18 accounts may be made by the department for purposes of acquiring and  
19 permanently retiring sea urchin and sea cucumber licenses in a manner  
20 prescribed by the director. The process for retirement of licenses  
21 shall be set by rule by the director and the rules shall provide the  
22 opportunity for a spouse or child transferee after the death of a  
23 license holder to retire their license at the earliest appropriate  
24 time. After the number of licenses drops to twenty-five, the funds may  
25 be used by the department for sea urchin and sea cucumber management  
26 and enforcement.

27 **Sec. 7.** RCW 75.28.046 and 1994 c 260 s 12 are each amended to read  
28 as follows:

29 This section applies to all commercial fishery licenses, delivery  
30 licenses, and charter licenses, except for whiting-Puget Sound fishery  
31 licenses and emergency salmon delivery licenses.

32 (1) The license holder may engage in the activity authorized by a  
33 license subject to this section. With the exception of Dungeness crab-  
34 coastal fishery class B licensees licensed under RCW ((75.30.350(3)))  
35 75.30.350(4), the holder of a license subject to this section may also  
36 designate up to two alternate operators for the license. Dungeness

1 crab-coastal fishery class B licensees may not designate alternate  
2 operators. After December 31, 1998, sea urchin and sea cucumber dive  
3 fishery licenses may not designate alternate operators except as  
4 provided in sections 2 (2) and 3 (2) of this act. A person designated  
5 as an alternate operator must possess an alternate operator license  
6 issued under (~~section 23 of this act and~~) RCW 75.28.048.

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

9 NEW SECTION. Sec. 8. The following acts or parts of acts are each  
10 repealed:

11 (1) RCW 75.30.210 and 1993 c 340 s 41, 1990 c 62 s 2, & 1989 c 37  
12 s 2; and

13 (2) RCW 75.30.250 and 1993 c 340 s 44 & 1990 c 61 s 2.

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