CERTIFICATION OF ENROLLMENT

ENGROSGED SECOND SUBSTITUTE SENATE BILL 5658

Chapter 126, Laws of 1999

56th Legislature
1999 Regular Session

SEA URCHIN AND SEA CUCUMBER LICENSES AND REVENUES


Passed by the Senate March 12, 1999
YEAS 46 NAYS 0

BRAD OWEN
President of the Senate

Passed by the House April 8, 1999
YEAS 95 NAYS 0

TONY M. COOK
Secretary

I, Tony M. Cook, Secretary of the Senate of the State of Washington, do hereby certify that the attached is ENGROSGED SECOND SUBSTITUTE SENATE BILL 5658 as passed by the Senate and the House of Representatives on the dates hereon set forth.

Passed by the House April 8, 1999

FRANK CHOPP
Speaker of the House of Representatives

Approved April 28, 1999

GARY LOCKE
Governor of the State of Washington

Secretary of State
State of Washington
AN ACT Relating to sea urchin and sea cucumber dive fishery licenses and revenues; amending RCW 75.30.210, 75.30.250, 82.27.020, and 82.27.070; and providing an effective date.

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

Sec. 1. RCW 75.30.210 and 1998 c 190 s 104 are each amended to read as follows:

(1) A ((person shall not commercially take any species of sea urchin using shellfish diver gear without first obtaining a)) sea urchin dive fishery license is required to take sea urchins for commercial purposes. A sea urchin dive fishery license authorizes the use of only one diver in the water at any time during sea urchin harvest operations. If the same vessel has been designated on two sea urchin dive fishery licenses, two divers may be in the water. A natural person may not hold more than two sea urchin dive fishery licenses.

(2) Except as provided in subsection((s (3) and)) (6) of this section, ((after December 31, 1991,)) the director shall issue no new sea urchin dive fishery licenses. ((Only a person who meets the following qualifications may renew an existing license:}}
(a) The person shall have held the sea urchin dive fishery license sought to be renewed during the previous year or acquired the license by transfer from someone who held it during the previous year; and

(b) The person shall document, by valid shellfish receiving tickets issued by the department, that twenty thousand pounds of sea urchins were caught and sold under the license sought to be renewed during the two-year period ending March 31 of the most recent odd-numbered year.)

For licenses issued for the year 2000 and thereafter, the director shall renew existing licenses only to a natural person who held the license at the end of the previous year. If a sea urchin dive fishery license is not held by a natural person as of December 31, 1999, it is not renewable. However, if the license is not held because of revocation or suspension of licensing privileges, the director shall renew the license in the name of a natural person at the end of the revocation or suspension if the license holder applies for renewal of the license before the end of the year in which the revocation or suspension ends.

(3) Where a licensee failed to obtain the license during the previous year because of a license suspension or revocation by the department or the court, the licensee may qualify for a license by establishing that the person held such a license during the last year in which the person was eligible.

(4) The director may reduce or waive the poundage requirement of subsection (2)(b) of this section upon the recommendation of a board of review established under RCW 75.30.050. The board of review may recommend a reduction or waiver of the poundage requirement in individual cases if, in the board’s judgment, extenuating circumstances prevent achievement of the poundage requirement. The director shall adopt rules governing the operation of the board of review and defining "extenuating circumstances."). Surcharges as provided for in this section shall be collected and deposited into the sea urchin dive fishery account hereby created in the custody of the state treasurer. Only the director or the director’s designee may authorize expenditures from the account. The sea urchin dive fishery account is subject to allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures. Expenditures from the account shall only be used to retire sea urchin licenses until the number of licenses is reduced to twenty-five, and thereafter shall only be used for sea urchin management and enforcement.
(a) A surcharge of one hundred dollars shall be charged with each sea urchin dive fishery license renewal for licenses issued in 2000 through 2005.

(b) For licenses issued for the year 2000 and thereafter, a surcharge shall be charged on the sea urchin dive fishery license for designating an alternate operator. The surcharge shall be as follows: Five hundred dollars for the first year or each of the first two consecutive years after 1999 that any alternate operator is designated and two thousand five hundred dollars each year thereafter that any alternate operator is designated.

(5) Sea urchin dive fishery licenses are (not) transferable from one license holder to another, except from parent to child, or from spouse to spouse during marriage or as a result of marriage dissolution, or upon the death of the license holder). After December 31, 1999, there is a surcharge to transfer a sea urchin dive fishery license. The surcharge is five hundred dollars for the first transfer of a license valid for calendar year 2000, and two thousand five hundred dollars for any subsequent transfer, whether occurring in the year 2000 or thereafter. Notwithstanding this subsection, a one-time transfer exempt from surcharge applies for a transfer from the natural person licensed on January 1, 2000, to that person’s spouse or child.

(6) If fewer than (forty-five) twenty-five natural persons are eligible for sea urchin dive fishery licenses, the director may accept applications for new licenses. (The director shall determine by random selection the successful applicants for the additional licenses. The number of additional licenses issued shall be sufficient to maintain up to forty-five licenses in the sea urchin dive fishery. The director shall adopt rules governing the application, selection, and issuance procedure for new sea urchin dive fishery licenses, based upon recommendations of a board of review established under RCW 75.30.050.)

The additional licenses may not cause more than twenty-five natural persons to be eligible for a sea urchin dive fishery license. New licenses issued under this section shall be distributed according to rules of the department that recover the value of such licensed privilege.

Sec. 2. RCW 75.30.250 and 1998 c 190 s 105 are each amended to read as follows:
((A person shall not commercially take while using shellfish diver gear any species of sea cucumber without first obtaining a)) sea cucumber dive fishery license is required to take sea cucumbers for commercial purposes. A sea cucumber dive fishery license authorizes the use of only one diver in the water at any time during sea cucumber harvest operations. If the same vessel has been designated on two sea cucumber dive fishery licenses, two divers may be in the water. A natural person may not hold more than two sea cucumber dive fishery licenses.

Except as provided in subsection (6) of this section, ((after December 31, 1991,)) the director shall issue no new sea cucumber dive fishery licenses. ((Only a person who meets the following qualifications may renew an existing license:

(a) The person shall have held the sea cucumber dive fishery license sought to be renewed during the previous two years or acquired the license by transfer from someone who held it during the previous year; and

(b) The person shall establish, by means of dated shellfish receiving documents issued by the department, that thirty landings of sea cucumbers totaling at least ten thousand pounds were made under the license during the previous two-year period ending December 31 of the odd-numbered year.)) For licenses issued for the year 2000 and thereafter, the director shall renew existing licenses only to a natural person who held the license at the end of the previous year. If a sea cucumber dive fishery license is not held by a natural person as of December 31, 1999, it is not renewable. However, if the license is not held because of revocation or suspension of licensing privileges, the director shall renew the license in the name of a natural person at the end of the revocation or suspension if the license holder applies for renewal of the license before the end of the year in which the revocation or suspension ends.

Where ((the person)) a licensee failed to obtain the license during either of the previous two years because of a license suspension by the department or the court, the ((person)) licensee may qualify for a license by establishing that the person held such a license during the last year in which the person was eligible.

(The director may reduce or waive any landing or poundage requirement established under this section upon the recommendation of a board of review established under RCW 75.30.050. The board of review...
may recommend a reduction or waiver of any landing or poundage requirement in individual cases if, in the board’s judgment, extenuating circumstances prevent achievement of the landing or poundage requirement. The director shall adopt rules governing the operation of the board of review and defining "extenuating circumstances." Surcharges as provided for in this section shall be collected and deposited into the sea cucumber dive fishery account hereby created in the custody of the state treasurer. Only the director or the director’s designee may authorize expenditures from the account. The sea cucumber dive fishery account is subject to allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures. Expenditures from the account shall only be used to retire sea cucumber licenses until the number of licenses is reduced to twenty-five, and thereafter shall only be used for sea cucumber management and enforcement.

(a) A surcharge of one hundred dollars shall be charged with each sea cucumber dive fishery license renewal for licenses issued in 2000 through 2005.

(b) For licenses issued for the year 2000 and thereafter, a surcharge shall be charged on the sea cucumber dive fishery for designating an alternate operator. The surcharge shall be as follows: Five hundred dollars for the first year or each of the first two consecutive years after 1999 that any alternate operator is designated and two thousand five hundred dollars each year thereafter that any alternate operator is designated.

(5) Sea cucumber dive fishery licenses are ((not)) transferable ((from one license holder to another except from parent to child, from spouse to spouse during marriage or as a result of marriage dissolution, or upon death of the license holder)). After December 31, 1999, there is a surcharge to transfer a sea cucumber dive fishery license. The surcharge is five hundred dollars for the first transfer of a license valid for calendar year 2000 and two thousand five hundred dollars for any subsequent transfer whether occurring in the year 2000 or thereafter. Notwithstanding this subsection, a one-time transfer exempt from surcharge applies for a transfer from the natural person licensed on January 1, 2000, to that person’s spouse or child.

(6) If fewer than ((fifty)) twenty-five persons are eligible for sea cucumber dive fishery licenses, the director may accept applications for new licenses ((from those persons who can demonstrate..."
two years’ experience in the Washington state sea cucumber dive fishery. The director shall determine by random selection the successful applicants for the additional licenses. The number of additional licenses issued shall be sufficient to maintain up to fifty licenses in the sea cucumber dive fishery. The director shall adopt rules governing the application, selection, and issuance procedure for new sea cucumber dive fishery licenses, based upon recommendations of a board of review established under RCW 75.30.050). The additional licenses may not cause more than twenty-five natural persons to be eligible for a sea cucumber dive fishery license. New licenses issued under this section shall be distributed according to rules of the department that recover the value of such licensed privilege.

Sec. 3. RCW 82.27.020 and 1993 sp.s. c 17 s 12 are each amended to read as follows:

(1) In addition to all other taxes, licenses, or fees provided by law there is established an excise tax on the commercial possession of enhanced food fish as provided in this chapter. The tax is levied upon and shall be collected from the owner of the enhanced food fish whose possession constitutes the taxable event. The taxable event is the first possession in Washington by an owner. Processing and handling of enhanced food fish by a person who is not the owner is not a taxable event to the processor or handler.

(2) A person in possession of enhanced food fish and liable to this tax may deduct from the price paid to the person from which the enhanced food fish (except oysters) are purchased an amount equal to a tax at one-half the rate levied in this section upon these products.

(3) The measure of the tax is the value of the enhanced food fish at the point of landing.

(4) The tax shall be equal to the measure of the tax multiplied by the rates for enhanced food fish as follows:

(a) Chinook, coho, and chum salmon and anadromous game fish: Five and twenty-five one-hundredths percent (\(\frac{5.25}{100}\)).

(b) Pink and sockeye salmon: Three and fifteen one-hundredths percent (\(\frac{3.15}{100}\)).

(c) Other food fish and shellfish, except oysters, sea urchins, and sea cucumbers: Two and one-tenth percent (\(\frac{2.1}{100}\)).

(d) Oysters: Eight one-hundredths of one percent (\(\frac{0.08}{100}\)).
(e) Sea urchins: Four and six-tenths percent through December 31, 2005, and two and one-tenth percent thereafter; and

(f) Sea cucumbers: Four and six-tenths percent through December 31, 2005, and two and one-tenth percent thereafter.

(5) An additional tax is imposed equal to the rate specified in RCW 82.02.030 multiplied by the tax payable under subsection (4) of this section.

Sec. 4. RCW 82.27.070 and 1988 c 36 s 61 are each amended to read as follows:

All taxes collected by the department of revenue under this chapter shall be deposited in the state general fund except for the excise tax on anadromous game fish, which shall be deposited in the wildlife fund, and, during the period January 1, 2000, to December 31, 2005, twenty-five forty-sixths of the revenues derived from the excise tax on sea urchins collected under RCW 82.27.020 shall be deposited into the sea urchin dive fishery account created in RCW 75.30.210, and twenty-five forty-sixths of the revenues derived from the excise tax on sea cucumbers collected under RCW 82.27.020 shall be deposited into the sea cucumber dive fishery account created in RCW 75.30.250.

NEW SECTION. Sec. 5. Section 3 of this act takes effect January 1, 2000.

Passed the Senate March 12, 1999.
Passed the House April 8, 1999.
Approved by the Governor April 28, 1999.
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