
ENGROSSED SUBSTITUTE HOUSE BILL 1471

State of Washington

53rd Legislature

1993 Regular Session

By House Committee on Fisheries & Wildlife (originally sponsored by Representatives King, Basich, Orr, Fuhrman, Brumsickle, Foreman and G. Cole)

Read first time 03/01/93.

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 within one foot of
19 another hull length.

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 | Nonresident |
|----|--|----------|-------------|
| 4 | | Fee | Fee |
| 5 | (1) Ring net | \$50 | \$100 |
| 6 | (2) Shellfish pot((s | | |
| 7 | (excluding)) <u>(other than</u> | | |
| 8 | crab) | \$50 | \$100 |
| 9 | (3) <u>Puget Sound crab</u> pot((s | | |
| 10 | (Puget Sound))) | \$50 | \$100 |
| 11 | (4) <u>Coastal crab</u> pot((s | | |
| 12 | (other than Puget Sound))) | \$200 | \$400 |
| 13 | (5) Shellfish diver | | |
| 14 | ((excluding)) <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) ((Commercial)) <u>Razor</u> | | |
| 19 | clam ((license)) <u>gear</u> | \$50 | \$100 |
| 20 | (9) Geoduck diver ((license))) | \$100 | \$200 |
| 21 | (10) Other shellfish gear | \$100 | \$200 |

22 NEW SECTION. **Sec. 5.** A surcharge of one hundred twenty-five
23 dollars shall be collected with each coastal crab pot license issued
24 under RCW 75.28.130 until June 30, 1999.

25 NEW SECTION. **Sec. 6.** A coastal crab pot license is required to
26 deliver coastal crab taken in offshore waters and delivered to a port
27 in the state.

28 NEW SECTION. **Sec. 7.** Coastal crab pot licenses are transferable,
29 subject to the following provisions:

30 (1) There is no restriction on the transfer of a license if the
31 vessel holding the license is transferred together with the license to
32 a new owner.

33 (2) License transfers between vessels are restricted to:

1 (a) One transfer in any two consecutive Washington state coastal
2 crab seasons when transfer is between vessels of comparable or lesser
3 hull length; or

4 (b) One transfer in any five consecutive Washington state coastal
5 crab seasons to a vessel of greater hull length provided that the
6 vessel to which the license is being transferred may not be greater
7 than ten feet in hull length than the vessel from which the license is
8 transferred.

9 (3) In the event of loss of a vessel, a vessel owner may transfer
10 a license to a vessel of comparable or lesser hull length.

11 (4) Upon request made during a Washington state coastal crab season
12 by a vessel owner, the director may allow a temporary emergency
13 transfer of a license to a leased or rented vessel, if the vessel to
14 which the emergency transfer is made is not greater than ten feet in
15 hull length than the vessel from which the license is transferred. An
16 emergency temporary transfer is valid for the repair time of the vessel
17 from which the transfer is made or for the end of the season in which
18 the transfer is made, whichever occurs first. Upon repair of the
19 vessel or end of the season the vessel owner shall transfer the license
20 from the leased or rented vessel to the vessel from which the license
21 was transferred or to a replacement vessel of comparable hull length to
22 or lesser hull length than the original vessel.

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

31 NEW SECTION. **Sec. 9.** (1) Effective January 1, 1994, it is
32 unlawful to fish for coastal crab in Washington state waters or deliver
33 coastal crab to a port in the state without a coastal crab pot license.
34 A coastal crab pot license is not required to take other species of
35 crab, including red rock crab (Cancer productus), from waters
36 containing coastal crab.

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

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

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

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

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

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

10 (ii) Delivery permit or delivery license, issued under RCW
11 75.28.125;

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

13 (iv) Salmon delivery permit or salmon delivery license, issued
14 under RCW 75.28.113;

15 (v) Trawl license or trawl (other than Puget Sound) license, issued
16 under RCW 75.28.140; and

17 (b) Can prove active historical participation in the coastal crab
18 fishery as evidenced by having made a minimum of eight crab landings
19 per season in at least two of the three qualifying seasons, which
20 landings total a minimum of five thousand pounds of crab in each
21 qualifying season, taken in coastal or offshore waters as documented by
22 valid Washington state shellfish receiving tickets. For purposes of
23 this section, "crab taken in coastal or offshore waters" means crab
24 taken in Washington state department of fisheries marine fish/shellfish
25 management and catch reporting areas 58B, 59A, 59B, 60A, 60B, 60C, 60D,
26 61, or 62, as defined in WAC 220-20-410.

27 (3) A coastal crab pot license shall only be issued to a vessel
28 that has participated continuously in the coastal crab fishery by
29 having held one or more of the licenses listed in subsection (2)(a) of
30 this section each calendar year from 1990 through 1993.

31 NEW SECTION. **Sec. 10.** An applicant who can show historical
32 participation under section 9(2) of this act but not satisfying the
33 continuous participation requirement of section 9(3) of this act shall
34 be issued a coastal crab pot license if:

35 (1) The owner can prove that the owner was in the process on
36 September 15, 1991, of constructing a vessel for the purpose of coastal
37 crab fishing. For purposes of this section, "construction" means
38 having the keel laid, and "for the purpose of coastal crab fishing"

1 means the vessel is designed to retrieve crab pots mechanically and has
2 a live well. A coastal crab pot license issued to a vessel under
3 construction is not renewable after December 31, 1994, unless the
4 vessel lands five thousand pounds of coastal crab into a Washington
5 state port before December 31, 1994; or

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

10 NEW SECTION. **Sec. 11.** (1) An Oregon resident who can show
11 historical and continuous participation in the Washington state coastal
12 crab fishery by having held a nonresident crab pots (other than Puget
13 Sound) license issued under RCW 75.28.140 each year from 1990 through
14 1993, and who has delivered a minimum of five thousand pounds of crab
15 into Oregon during any two of the three qualifying periods as provided
16 in section 9(2) of this act as evidenced by valid Oregon fish receiving
17 tickets, shall be issued a nonresident coastal crab pot license valid
18 for fishing in Washington state waters north from the Oregon/Washington
19 boundary to United States latitude forty-six degrees thirty minutes
20 north. Such license shall be issued upon application and submission of
21 proof of delivery.

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

27 NEW SECTION. **Sec. 12.** (1) It is unlawful for vessels registered
28 in Washington to take coastal crab in state waters or waters of the
29 exclusive economic zone and coterminous with the seaward boundary of
30 this state, or to land such crab in Washington, without the licenses,
31 endorsements, or permits required to take or land coastal crab in
32 Washington.

33 (2) This section becomes effective only upon reciprocal legislation
34 being enacted by both the states of Oregon and California. For
35 purposes of this section, "exclusive economic zone" means that zone
36 defined in the federal fishery conservation and management act (16

1 U.S.C. Sec. 1802) as of the effective date of this section or as of a
2 subsequent date adopted by rule of the director.

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

8 Where the failure to hold a license the previous year was the
9 result of license suspension, the vessel may qualify by establishing
10 that the vessel held a coastal crab pot license in the last year in
11 which the license was not suspended.

12 NEW SECTION. **Sec. 14.** If fewer than one hundred twenty-five
13 vessels are eligible for coastal crab pot licenses, the director shall
14 accept applications for new licenses. The director shall determine by
15 random selection the successful applicants for the additional licenses.
16 The number of additional licenses issued shall be sufficient to
17 maintain one hundred twenty-five vessels in the Washington coastal crab
18 fishery. The director shall adopt rules governing the notification,
19 application, selection, and issuance procedures for new coastal crab
20 licenses, based on recommendations of a board of review established
21 under RCW 75.30.050.

22 **Sec. 15.** RCW 75.30.050 and 1990 c 61 s 3 are each amended to read
23 as follows:

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

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

28 (b) The commercial salmon fishing industry in cases involving
29 commercial salmon licenses;

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

32 (d) The commercial herring fishery in cases involving herring
33 validations;

34 (e) The commercial Puget Sound whiting fishery in cases involving
35 Puget Sound whiting license endorsements;

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

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

5 (h) The commercial coastal crab industry in cases involving coastal
6 crab pot licenses.

7 (2) Members shall serve at the discretion of the director and shall
8 be reimbursed for travel expenses as provided in RCW 43.03.050 and
9 43.03.060.

10 NEW SECTION. Sec. 16. The director may reduce the landing
11 requirement established under section 9(2)(b) of this act upon the
12 recommendation of an advisory review board established under RCW
13 75.30.050, but the director may not entirely waive the landing
14 requirement. The advisory review board may recommend a reduction of
15 the landing requirement in individual cases if in the board's judgment,
16 extenuating circumstances prevented achievement of the landing
17 requirement. The director shall adopt rules governing the operation of
18 the advisory review board and defining "extenuating circumstances." In
19 defining extenuating circumstances, special consideration shall be
20 given to individuals who can provide evidence of lack of access to
21 capital based on past discrimination due to race, creed, color, sex,
22 national origin, or disability.

23 NEW SECTION. Sec. 17. The industry shall prepare a gear reduction
24 plan to stabilize the coastal crab industry in Washington. The
25 industry shall submit the plan to the department of fisheries by
26 November 31, 1995. The department shall evaluate the plan and submit
27 it to the legislature by December 31, 1995.

28 NEW SECTION. Sec. 18. (1) Sections 2, 6, and 7 of this act are
29 each added to chapter 75.28 RCW.

30 (2) Sections 8 through 14 and 16 of this act are each added to
31 chapter 75.30 RCW.

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