

2 **ESHB 1471** - H COMM AMD **ADOPTED 2-9-94**
3 By Committee on Fisheries & Wildlife

4

5 Strike everything after the enacting clause and insert the
6 following:

7 "NEW SECTION. **Sec. 1.** The legislature finds that the commercial
8 crab fishery in coastal and offshore waters is overcapitalized. The
9 legislature further finds that this overcapitalization has lead to the
10 economic destabilization of the coastal crab industry, and can cause
11 excessive harvesting pressures on the coastal crab resources of
12 Washington state. In order to provide for the economic well-being of
13 the Washington crab industry and to protect the livelihood of
14 Washington crab fishers who have historically and continuously
15 participated in the coastal crab fishery, the legislature finds that it
16 is in the best interests of the economic well-being of the coastal crab
17 industry to reduce the number of fishers taking crab in coastal waters,
18 to reduce the number of vessels landing crab taken in offshore waters,
19 to limit the number of future licenses, and to limit fleet capacity by
20 limiting vessel size.

21 NEW SECTION. **Sec. 2.** (1) Effective January 1, 1995, it is
22 unlawful to fish for coastal crab in Washington state waters or deliver
23 coastal crab to a port in the state without a Dungeness crab--coastal
24 or a Dungeness crab--coastal class B fishery license.

25 (2) A Dungeness crab--coastal fishery license is transferable.
26 Such a license shall only be issued to a person who proved active
27 historical participation in the coastal crab fishery by having
28 designated, as of December 31, 1993, a vessel on the qualifying license
29 that meets the following criteria:

30 (a) Made a minimum of eight coastal crab landings totaling a
31 minimum of five thousand pounds per season in at least two of the four
32 qualifying seasons identified in subsection (4) of this section, as
33 documented by valid Washington state shellfish receiving tickets; and
34 showed historical and continuous participation in the coastal crab
35 fishery by having held one of the following licenses or their

1 equivalents each calendar year beginning 1990 through 1993, and was
2 designated on the qualifying license of the person who held one of the
3 following licenses in 1994:

4 (i) Crab pot«Non-Puget Sound license, issued under RCW
5 75.28.130(1)(b);

6 (ii) Nonsalmon delivery license, issued under RCW 75.28.125;

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

8 (iv) Salmon delivery license, issued under RCW 75.28.113;

9 (v) Food fish trawl license, issued under RCW 75.28.120; or

10 (vi) Shrimp trawl license, issued under RCW 75.28.130; or

11 (b) Made a minimum of four landings of coastal crab totaling two
12 thousand pounds during the period from December 1, 1991, to March 20,
13 1992, and made a minimum of eight crab landings totaling a minimum of
14 five thousand pounds of coastal crab during each of the following
15 periods: December 1, 1991, to September 15, 1992; December 1, 1992, to
16 September 15, 1993; and December 1, 1993, to September 15, 1994. For
17 landings made after December 31, 1993, the vessel shall have been
18 designated on the qualifying license of the person making the landings.

19 (3) A Dungeness crab--coastal class B fishery license is not
20 transferable. Such a license shall be issued to persons who do not
21 meet the qualification criteria for a Dungeness crab--coastal fishery
22 license, if the person is the registered owner, as of December 31,
23 1993, of a vessel that made a minimum of four landings totaling a
24 minimum of two thousand pounds of coastal crab, documented by valid
25 Washington state shellfish receiving tickets, during at least one of
26 the four qualifying seasons, and if the person has participated
27 continuously in the coastal crab fishery by having held one or more of
28 the licenses listed in subsection (2) of this section in each calendar
29 year subsequent to the qualifying season in which qualifying landings
30 were made through 1994. Dungeness crab--coastal class B fishery
31 licenses cease to exist after December 31, 1997, and the continuing
32 license provisions of RCW 34.05.422(3) are not applicable.

33 (4) The four qualifying seasons for purposes of this section are:

34 (a) December 1, 1988, through September 15, 1989;

35 (b) December 1, 1989, through September 15, 1990;

36 (c) December 1, 1990, through September 15, 1991; and

37 (d) December 1, 1991, through September 15, 1992.

38 (5) For purposes of this section and section 4 of this act,
39 "coastal crab" means Dungeness crab (cancer magister) taken in all

1 Washington territorial and offshore waters south of the United States-
2 Canada boundary and west of the Bonilla-Tatoosh line (a line from the
3 western end of Cape Flattery to Tatoosh Island lighthouse, then to the
4 buoy adjacent to Duntz Rock, then in a straight line to Bonilla Point
5 of Vancouver island), Grays Harbor, Willapa Bay, and the Columbia
6 river.

7 NEW SECTION. **Sec. 3.** The legislature finds that some persons may
8 have seriously planned to enter the commercial crab fishery, but were
9 unable to fulfill the landing requirements because the vessel under
10 construction was not completed in sufficient time to make the
11 qualifying landings.

12 (1) A person who cannot demonstrate participation in the coastal
13 crab fishery under section 2 of this act shall be awarded a Dungeness
14 crab--coastal fishery license if:

15 (a) The person, as of December 31, 1993, has designated a vessel on
16 the qualifying license that was in the process of being constructed for
17 the purpose of being employed in the Washington coastal crab fishery on
18 March 20, 1992. For purposes of this section, "construction" means
19 having the keel laid, and "for the purpose of being employed in the
20 Washington coastal crab fishery" means the vessel is designed to
21 retrieve crab pots mechanically and has a live well; and

22 (b) The vessel landed both five thousand pounds of coastal crab
23 into a Washington port before September 15, 1993, and five thousand
24 pounds of coastal crab in eight landings between December 1, 1993, and
25 September 15, 1994, or else the vessel under construction is a
26 replacement vessel for a lost vessel that, had it not been lost, would
27 have contributed to the eligibility of the applicant for a Dungeness
28 crab--coastal fishery license.

29 (2) All applications for Dungeness crab--coastal fishery licenses
30 under this section shall be subject to review by the advisory review
31 board in accordance with RCW 75.30.060. The board shall recommend to
32 the director whether such applications should be accepted.

33 NEW SECTION. **Sec. 4.** (1) An Oregon resident who can show
34 historical and continuous participation in the Washington state coastal
35 crab fishery by having held a nonresident Non-Puget Sound crab pot
36 license issued under RCW 75.28.130 each year from 1990 through 1994,
37 and who has delivered a minimum of eight landings totaling five

1 thousand pounds of crab into Oregon during any two of the four
2 qualifying seasons as provided in section 2(4) of this act as evidenced
3 by valid Oregon fish receiving tickets, shall be issued a nonresident
4 Dungeness crab--coastal fishery license valid for fishing in Washington
5 state waters north from the Oregon-Washington boundary to United States
6 latitude forty-six degrees thirty minutes north. Such license shall be
7 issued upon application and submission of proof of delivery.

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

13 NEW SECTION. **Sec. 5.** (1) The following restrictions apply to
14 vessel designations and substitutions on Dungeness crab--coastal
15 fishery licenses and Dungeness crab--coastal class B fishery licenses:

16 (a) The holder of the license may not designate on the license a
17 vessel the hull length of which exceeds ninety-nine feet, nor may the
18 holder change vessel designation if the hull length of the vessel
19 proposed to be designated exceeds the hull length of the currently
20 designated vessel by more than ten feet;

21 (b) If the hull length of the vessel proposed to be designated is
22 comparable to or exceeds by up to one foot the hull length of the
23 currently designated vessel, the department may change the vessel
24 designation no more than once in any two consecutive Washington state
25 coastal crab seasons unless the currently designated vessel is lost or
26 in disrepair such that it does not safely operate, in which case the
27 department may allow a change in vessel designation;

28 (c) If the hull length of the vessel proposed to be designated
29 exceeds by between one and ten feet the hull length of the currently
30 designated vessel, the department may change the vessel designation no
31 more than once in any five consecutive Washington state coastal crab
32 seasons, unless a request is made by the license holder during a
33 Washington state coastal crab season for an emergency change in vessel
34 designation. If such an emergency request is made, the director may
35 allow a temporary change in designation to a leased or rented vessel,
36 if the hull length of the leased or rented vessel does not exceed by
37 more than ten feet the hull length of the currently designated vessel.

1 (2) For the purposes of this section, "hull length" means the
2 length of a vessel's hull as shown by United States coast guard
3 documentation or marine survey, or for vessels that do not require
4 United States coast guard documentation, by manufacturer's
5 specifications or marine survey.

6 **Sec. 6.** RCW 75.28.044 and 1993 sp.s. c 17 s 45 are each amended to
7 read as follows:

8 This section applies to all commercial fishery licenses, delivery
9 licenses, and charter licenses, except for emergency salmon delivery
10 licenses.

11 (1) The holder of a license subject to this section may substitute
12 the vessel designated on the license or designate a vessel if none has
13 previously been designated if the license holder:

- 14 (a) Surrenders the previously issued license to the department;
- 15 (b) Submits to the department an application that identifies the
16 currently designated vessel, the vessel proposed to be designated, and
17 any other information required by the department; and
- 18 (c) Pays to the department a fee of thirty-five dollars.

19 (2) Unless the license holder owns all vessels identified on the
20 application described in subsection (1)(b) of this section or unless
21 the vessel is designated on a Dungeness crab--coastal or a Dungeness
22 crab--coastal class B fishery license, the following restrictions apply
23 to changes in vessel designation:

- 24 (a) The department shall change the vessel designation on the
25 license no more than four times per calendar year.
- 26 (b) The department shall change the vessel designation on the
27 license no more than once in any seven-day period.

28 **Sec. 7.** RCW 75.28.046 and 1993 c 340 s 9 are each amended to read
29 as follows:

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

33 (1) The license holder may engage in the activity authorized by a
34 license subject to this section. With the exception of Dungeness
35 crab--coastal fishery class B licensees licensed under section 2(3) of
36 this act, the holder of a license subject to this section may also
37 designate up to two alternate operators for the license. Dungeness

1 crab--coastal fishery class B licensees may not designate alternate
 2 operators. A person designated as an alternate operator must possess
 3 an alternate operator license issued under section 23 of this act and
 4 RCW 75.28.048.

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

7 NEW SECTION. **Sec. 8.** Except as provided under section 12 of this
 8 act, after December 31, 1995, a Dungeness crab--coastal fishery license
 9 may only be issued to a person who held the license in 1995, or has had
 10 the license transferred to the person. Once a license is issued,
 11 renewal is contingent on continuous holding of the license; however
 12 where the failure to hold a license continuously is the result of
 13 license suspension, the license may be renewed if the person whose
 14 license is suspended held a Dungeness crab--coastal fishery license in
 15 the year before license suspension.

16 **Sec. 9.** RCW 75.28.130 and 1993 sp.s. c 17 s 40 are each amended to
 17 read as follows:

18 (1) This section establishes commercial fishery licenses required
 19 for shellfish fisheries and the annual fees for those licenses. The
 20 director may issue a limited-entry commercial fishery license only to
 21 a person who meets the qualifications established in applicable
 22 governing sections of this title.

Fishery (Governing section(s))	Annual Fee		Vessel Required?	Limited Entry?
	Resident	Nonresident		
(a) Burrowing shrimp	\$185	\$295	Yes	No
(b) ((Crab pot	\$295	\$520	Yes	No
(c) Crab pot	\$130	\$185	Yes	No
Puget Sound				
(d)) Crab ring net	\$130	\$185	Yes	No
Non-Puget Sound				
((e)) (c) Crab ring net	\$130	\$185	Yes	No
Puget Sound				
((f)) (d) Dungeness crab	<u>\$295</u>	<u>\$520</u>	<u>Yes</u>	<u>Yes</u>
<u>coastal (section 2</u> <u>of this act)</u>				
(e) Dungeness crab	<u>\$295</u>	<u>\$520</u>	<u>Yes</u>	<u>Yes</u>
<u>coastal, class B</u> <u>(section 2 of this act)</u>				
(f) Dungeness crab	\$130	\$185	Yes	Yes
Puget Sound (RCW 75.30.130)				

1	(g) Emerging commercial	\$185	\$295	Determined	Determined
2	fishery (RCW 75.30.220			by rule	by rule
3	and 75.28.740)				
4	(h) Geoduck (RCW	\$ 0	\$ 0	Yes	Yes
5	75.30.280)				
6	(i) Hardshell clam	\$530	\$985	Yes	No
7	mechanical harvester				
8	(RCW 75.28.280)				
9	(j) Oyster reserve	\$130	\$185	No	No
10	(RCW 75.28.290)				
11	(k) Razor clam	\$130	\$185	No	No
12	(l) Sea cucumber dive	\$130	\$185	Yes	Yes
13	(RCW 75.30.250)				
14	(m) Sea urchin dive	\$130	\$185	Yes	Yes
15	(RCW 75.30.210)				
16	(n) Shellfish dive	\$525	\$1045	Yes	No
17	(o) Shellfish pot	\$130	\$185	Yes	No
18	(p) Shrimp pot«	\$325	\$575	Yes	No
19	Hood Canal				
20	(q) Shrimp trawl«	\$240	\$405	Yes	No
21	Non-Puget Sound				
22	(r) Shrimp trawl«	\$185	\$295	Yes	No
23	Puget Sound				
24	(s) Squid	\$185	\$295	Yes	No

25 (2) The director may by rule determine the species of shellfish
 26 that may be taken with the commercial fishery licenses established in
 27 this section, the gear that may be used with the licenses, and the
 28 areas or waters in which the licenses may be used. Where a fishery
 29 license has been established for a particular species, gear,
 30 geographical area, or combination thereof, a more general fishery
 31 license may not be used to take shellfish in that fishery.

32 NEW SECTION. **Sec. 10.** A surcharge of fifty dollars shall be
 33 collected with each Dungeness crab--coastal fishery license issued
 34 under RCW 75.28.130 until June 30, 2000, and with each Dungeness crab--
 35 coastal class B fishery license issued under RCW 75.28.130 until
 36 December 31, 1997. Moneys collected under this section shall be placed
 37 in the Dungeness crab appeals account hereby created in the state
 38 treasury. Expenditures from the account shall only be used for
 39 processing appeals related to the issuance of Dungeness crab--coastal
 40 fishery licenses.

41 NEW SECTION. **Sec. 11.** (1) It is unlawful for Dungeness crab--
 42 coastal fishery licensees to take Dungeness crab in the waters of the
 43 exclusive economic zone westward of the states of Oregon or California
 44 and land crab taken in those waters into Washington state unless the

1 licensee also holds the licenses, permits, or endorsements, required by
2 Oregon or California to land crab into Oregon or California,
3 respectively.

4 (2) This section becomes effective only upon reciprocal legislation
5 being enacted by both the states of Oregon and California. For
6 purposes of this section, "exclusive economic zone" means that zone
7 defined in the federal fishery conservation and management act (16
8 U.S.C. Sec. 1802) as of the effective date of this section or as of a
9 subsequent date adopted by rule of the director.

10 NEW SECTION. **Sec. 12.** If fewer than one hundred twenty-five
11 persons are eligible for Dungeness crab--coastal fishery licenses, the
12 director may accept applications for new licenses. Additional licenses
13 issued shall be sufficient to maintain a maximum of one hundred twenty-
14 five licenses in the Washington coastal crab fishery. If additional
15 licenses are to be issued, the director shall adopt rules governing the
16 notification, application, selection, and issuance procedures for new
17 Dungeness crab--coastal fishery licenses, based on recommendations of
18 the review board established under RCW 75.30.050.

19 **Sec. 13.** RCW 75.30.050 and 1993 c 376 s 9 and 1993 c 340 s 27 are
20 each reenacted and amended to read as follows:

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

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

25 (b) The commercial salmon fishing industry in cases involving
26 commercial salmon fishery licenses;

27 (c) The commercial crab fishing industry in cases involving
28 dungeness crab--Puget Sound fishery licenses;

29 (d) The commercial herring fishery in cases involving herring
30 fishery licenses;

31 (e) The commercial Puget Sound whiting fishery in cases involving
32 whiting--Puget Sound fishery licenses;

33 (f) The commercial sea urchin fishery in cases involving sea urchin
34 dive fishery licenses;

35 (g) The commercial sea cucumber fishery in cases involving sea
36 cucumber dive fishery licenses; ((and))

1 (h) The commercial ocean pink shrimp industry (*Pandalus jordani*) in
2 cases involving ocean pink shrimp delivery licenses; and

3 (i) The commercial coastal crab industry in cases involving
4 Dungeness crab--coastal and Dungeness crab--coastal class B fishery
5 licenses.

6 (2) Members shall serve at the discretion of the director and shall
7 be reimbursed for travel expenses as provided in RCW 43.03.050,
8 43.03.060, and 43.03.065.

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

22 NEW SECTION. **Sec. 15.** The coastal crab industry shall prepare a
23 gear reduction plan to stabilize the coastal crab industry in
24 Washington. The industry shall submit the plan to the department of
25 fish and wildlife by June 30, 1996. The department shall evaluate the
26 plan and submit it to the legislature by December 31, 1996.

27 **Sec. 16.** RCW 75.28.125 and 1993 sp.s. c 17 s 39 and 1993 c 376 s
28 3 are each reenacted and amended to read as follows:

29 (1) Except as provided in subsection (2) of this section, it is
30 unlawful to deliver with a commercial fishing vessel food fish or
31 shellfish taken in offshore waters to a port in the state without a
32 ~~((nonsalmon))~~ nonlimited entry delivery license. As used in this
33 section, "food fish" does not include salmon. As used in this section,
34 "shellfish" does not include ocean pink shrimp or coastal crab. The
35 annual license fee for a ~~((nonsalmon))~~ nonlimited entry delivery

1 license is one hundred ten dollars for residents and two hundred
2 dollars for nonresidents.

3 (2) Holders of salmon troll fishery licenses issued under RCW
4 75.28.110, salmon delivery licenses issued under RCW 75.28.113, crab
5 pot fishery licenses issued under RCW 75.28.130, food fish trawl--Non-
6 Puget Sound fishery licenses issued under RCW 75.28.120, Dungeness
7 crab--coastal fishery licenses, ocean pink shrimp delivery licenses,
8 and shrimp trawl--Non-Puget Sound fishery licenses issued under RCW
9 75.28.130 may deliver food fish or shellfish taken in offshore waters
10 without a ((~~nonsalmon~~)) nonlimited entry delivery license.

11 (3) A ((~~nonsalmon~~)) nonlimited entry delivery license authorizes no
12 taking of food fish or shellfish from state waters.

13 **Sec. 17.** RCW 75.28.113 and 1993 sp.s. c 17 s 36 are each amended
14 to read as follows:

15 (1) It is unlawful to deliver salmon taken in offshore waters to a
16 place or port in the state without a salmon delivery license from the
17 director. The annual fee for a salmon delivery license is three
18 hundred eighty dollars for residents and six hundred eighty-five
19 dollars for nonresidents. The annual surcharge under RCW 75.50.100 is
20 one hundred dollars for each license. Holders of ((~~nonsalmon~~))
21 nonlimited entry delivery licenses issued under RCW 75.28.125 may apply
22 the ((~~nonsalmon~~)) nonlimited entry delivery license fee against the
23 salmon delivery license fee.

24 (2) Only a person who meets the qualifications established in RCW
25 75.30.120 may hold a salmon delivery license issued under this section.

26 (3) A salmon delivery license authorizes no taking of salmon or
27 other food fish or shellfish from the waters of the state.

28 (4) If the director determines that the operation of a vessel under
29 a salmon delivery license results in the depletion or destruction of
30 the state's salmon resource or the delivery into this state of salmon
31 products prohibited by law, the director may revoke the license under
32 the procedures of chapter 34.05 RCW.

33 NEW SECTION. **Sec. 18.** (1) Section 10 of this act is added to
34 chapter 75.28 RCW.

35 (2) Sections 2 through 5, 8, 11, 12, 14, and 15 of this act are
36 each added to chapter 75.30 RCW.

1 NEW SECTION. **Sec. 19.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

5 NEW SECTION. **Sec. 20.** Sections 1 through 14 and 16 through 19 of
6 this act shall take effect January 1, 1995."

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