

SENATE BILL REPORT

SHB 1057

As Reported By Senate Committee On:
Parks, Fish & Wildlife, March 31, 2003

Title: An act relating to commercial fishing violations.

Brief Description: Creating the license suspension review committee.

Sponsors: House Committee on Fisheries, Ecology & Parks (originally sponsored by Representatives Hatfield, Buck, Blake and Kessler).

Brief History:

Committee Activity: Parks, Fish & Wildlife: 3/24/03, 3/31/03 [DPA].

SENATE COMMITTEE ON PARKS, FISH & WILDLIFE

Majority Report: Do pass as amended.

Signed by Senators Oke, Chair; Sheahan, Vice Chair; Doumit, Esser, Jacobsen, Morton, Spanel and Swecker.

Staff: Genevieve Pisarski (786-7488)

Background: A commercial fishing violation is generally punishable as a misdemeanor, gross misdemeanor, or felony. In addition to criminal penalties, the Director of the Department of Fish and Wildlife is also required to suspend commercial fishing privileges upon conviction within a five-year period of two commercial fishing violations that are gross misdemeanors or felonies. Suspended licenses may not be transferred or be used by an alternate operator. Suspension may also be for life, if willful or wanton disregard for the conservation of fish or wildlife is found.

Summary of Amended Bill: In addition to criminal penalties, the Director of the Department of Fish and Wildlife has discretion to suspend commercial fishing privileges upon conviction of two or more "qualifying commercial fishing violations" within a three-year period. Suspension may not exceed one year. A suspended license may not be transferred or be used by an alternate operator, if the licensee is also the violator.

A "qualifying commercial fishing violation" is one that is a gross misdemeanor or a felony and involves a specified quantity of unlawfully harvested product or a specified prohibited activity. For shellfish, including crab, the quantity of unlawfully harvested product must be at least 50 individual unlawfully harvested shellfish that make up at least 6 percent of the total harvest. For fish, other than groundfish and coastal pelagic baitfish, the unlawfully harvested quantity must be more than 6 percent by weight of the total harvest and be valued at more than \$250. For groundfish and coastal pelagic baitfish, the unlawfully harvested quantity must be more than 10 percent of the individuals in the total catch and valued at more than \$500. Alternatively, for a groundfish or coastal pelagic baitfish species that is categorized as over-fished by the National Marine Fisheries Service, the unlawfully harvested quantity

must be more than 10 percent of the harvest limit set by the department. The specified prohibited activities include fishing without a license, chartering without a license, using unlawful gear or an unlawful method, using a nondesignated vessel, fishing at an improper time, participating in a treaty fishery, using illegal nets, and using a commercial vessel for recreational pursuits.

The director may also recommend license suspension for one commercial fishing violation of severe magnitude or for one "egregious shellfish violation," which means a gross misdemeanor or felony involving 500 or more unlawfully harvested shellfish valued at more than \$2,500 that are more than 20 percent of the harvest.

A license suspension order from the director may be appealed to the License Suspension Review Committee within 31 days. The committee is appointed by the Fish and Wildlife Commission and includes two department employees and three commercial fishers from different counties. The commission may also appoint up to four alternates who may vote, when one of the regular members is unavailable or has been recused. The committee must hear and deliver an opinion on referrals or appeals within three months and may collect information and hear testimony regarding extenuating circumstances. The director must consider the committee's opinion and make a decision and may issue, not issue, or modify the suspension.

Amended Bill Compared to Substitute Bill: The license suspension review committee is authorized to deliver an opinion, rather than make a final decision on a license suspension. The director must consider the committee's opinion and make a decision to issue, not issue, or modify the suspension.

Appropriation: None.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Relatively minor violations should not result in loss of the ability to earn a living. Criminal penalties for violations remain in place. Whether there should also be a license suspension, should be evaluated in light of extenuating circumstances and the magnitude of the violation. The review committee should be advisory.

Testimony Against: None.

Testified: PRO: Rep. Brian Hatfield, prime sponsor; Phil Anderson, Dept. of Fish and Wildlife.