
SENATE BILL 5426

State of Washington

58th Legislature

2003 Regular Session

By Senators Oke and Doumit

Read first time 01/24/2003. Referred to Committee on Parks, Fish & Wildlife.

1 AN ACT Relating to the selling of commercially harvested fish; and
2 amending RCW 77.65.510, 77.65.515, 77.65.520, and 36.71.090.

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

4 **Sec. 1.** RCW 77.65.510 and 2002 c 301 s 2 are each amended to read
5 as follows:

6 (1) The department must establish and administer a direct retail
7 endorsement to serve as a single license that permits the holder of a
8 Washington salmon, sturgeon, tuna, or crab commercial fishing license
9 to clean, dress, and sell his or her catch directly to consumers at
10 retail, including over the internet. The direct retail endorsement
11 must be issued as an optional addition to all holders of a salmon,
12 sturgeon, tuna, or crab commercial fishing license that the department
13 offers under this chapter.

14 (2) The direct retail endorsement must be offered at the time of
15 application for the qualifying commercial fishing license. Individuals
16 in possession of a qualifying commercial fishing license issued under
17 this chapter may add a direct retail endorsement to their current
18 license at (~~the time they renew their commercial fishing license~~) any
19 time. Individuals who do not have a commercial fishing license for

1 salmon, sturgeon, tuna, or crab issued under this chapter may not
2 receive a direct retail endorsement. The costs, conditions,
3 responsibilities, and privileges associated with the endorsed
4 commercial fishing license is not affected or altered in any way by the
5 addition of a direct retail endorsement. These costs include the base
6 cost of the license and any revenue and excise taxes.

7 (3) An individual need only add one direct retail endorsement to
8 his or her license portfolio. If a direct retail endorsement is
9 selected by an individual holding more than one commercial fishing
10 license issued under this chapter, a single direct retail endorsement
11 is considered to be added to all qualifying commercial fishing licenses
12 held by that individual, and is the only license required for the
13 individual to sell at retail the harvest of salmon, sturgeon, tuna, or
14 crab permitted by all of the underlying endorsed licenses. The direct
15 retail endorsement applies only to the person named on the endorsed
16 license, and may not be used by an alternate operator named on the
17 endorsed license.

18 (4) In addition to any fees charged for the endorsed licenses and
19 harvest documentation as required by this chapter or the rules of the
20 department, the department may set a reasonable annual fee not to
21 exceed the administrative costs to the department for a direct retail
22 endorsement.

23 (5) The holder of a direct retail endorsement is responsible for
24 documenting the commercial harvest of salmon and crab according to the
25 provisions of this chapter, the rules of the department for a wholesale
26 fish dealer, and the reporting requirements of the endorsed license.
27 Any salmon, sturgeon, tuna, or crab caught by the holder of a direct
28 retail endorsement must be (~~landed in the round and~~) documented on
29 fish tickets, as provided for by the department, before further
30 processing.

31 (6) The direct retail endorsement must be displayed in a readily
32 visible manner by the seller wherever and whenever a sale to someone
33 other than a licensed wholesale dealer occurs. The holder of a direct
34 retail endorsement must notify the department at least twenty-four
35 hours prior to conducting an in-person sale of salmon, sturgeon, tuna,
36 or crab. The notification must provide the intended location of sale
37 and the approximate sales hours. For sales occurring in a venue other
38 than in person, such as over the internet, through a catalog, or on the

1 phone, the direct retail endorsement number of the seller must be
2 provided to the buyer both at the time of sale and the time of
3 delivery. All internet sales must be conducted in accordance with
4 federal laws and regulations.

5 (7) The direct retail endorsement is to be held by a natural person
6 and is not transferrable or assignable. If the endorsed license is
7 transferred, the direct retail endorsement immediately becomes void,
8 and the transferor is not eligible for a full or prorated reimbursement
9 of the annual fee paid for the direct retail endorsement. Upon
10 becoming void, the holder of a direct retail endorsement must surrender
11 the physical endorsement to the department.

12 (8) The holder of a direct retail endorsement must abide by the
13 provisions of Title 69 RCW as they apply to the processing and retail
14 sale of seafood. The department must distribute a pamphlet, provided
15 by the department of agriculture, with the direct retail endorsement
16 generally describing the labeling requirements set forth in chapter
17 69.04 RCW as they apply to seafood.

18 (9) The holder of a qualifying commercial fishing license issued
19 under this chapter must either possess a direct retail endorsement or
20 a wholesale dealer license provided for in RCW 77.65.280 in order to
21 lawfully sell their catch or harvest in the state to anyone other than
22 a licensed wholesale dealer.

23 (10) The direct retail endorsement entitles the holder to sell
24 wild-caught salmon, sturgeon, tuna, or crab only at a temporary food
25 service establishment as that term is defined in RCW 69.06.045.

26 **Sec. 2.** RCW 77.65.515 and 2002 c 301 s 3 are each amended to read
27 as follows:

28 (1) Prior to being issued a direct retail endorsement, an
29 individual must:

30 (a) Obtain and submit to the department a signed letter on
31 appropriate letterhead from the health department of the county in
32 which the individual makes his or her official residence or where the
33 hailing port for any documented vessel owned by the individual is
34 located as to the fulfillment of all requirements related to county
35 health rules, including the payment of all required fees. The local
36 health department generating the letter may charge a reasonable fee for
37 any necessary inspections. The letter must certify that the methods

1 used by the individual to transport, store, and display fresh salmon
2 and crabs meets that county's standards and the statewide standards
3 adopted by the board of health for food service operations; and

4 (b) Submit proof to the department that the individual making the
5 direct retail sales is in possession of a valid food and beverage
6 service worker's permit, as provided for in chapter 69.06 RCW.

7 (2) The requirements of subsection (1) of this section must be
8 completed each license year before a renewal direct retail endorsement
9 can be issued.

10 (3) Any individual possessing a direct retail endorsement must
11 notify the local health department of the county in which retail sales
12 are to occur, except for the county that conducted the initial
13 inspection, forty-eight hours before any transaction and make his or
14 her facilities available for inspection by a fish and wildlife officer,
15 the local health department of any county in which he or she sells
16 salmon, sturgeon, tuna, or crab, and any designee of the department of
17 health or the department of agriculture.

18 (4) Neither the department or a local health department may be held
19 liable in any judicial proceeding alleging that consumption of or
20 exposure to seafood sold by the holder of a direct retail endorsement
21 resulted in a negative health consequence, as long as the department
22 can show that the individual holding the direct retail endorsement
23 complied with the requirements of subsection (1) of this section prior
24 to being issued his or her direct retail license, and neither the
25 department nor a local health department acted in a reckless manner.
26 For the purposes of this subsection, the department or a local health
27 district shall not be deemed to be acting recklessly for not conducting
28 a permissive inspection.

29 **Sec. 3.** RCW 77.65.520 and 2002 c 301 s 4 are each amended to read
30 as follows:

31 (1) The direct retail endorsement is conditioned upon compliance:

32 (a) With the requirements of this chapter as they apply to
33 wholesale fish dealers and to the rules of the department relating to
34 the payment of fines for violations of rules for the accounting of the
35 commercial harvest of salmon, sturgeon, tuna, or crabs; and

36 (b) With the state board of health and local rules for food service
37 establishments.

1 (2) Violations of the requirements and rules referenced in
2 subsection (1) of this section may result in the suspension of the
3 direct retail endorsement. The suspended individual must not be
4 reimbursed for any portion of the suspended endorsement. Suspension of
5 the direct retail endorsement may not occur unless and until:

6 (a) The director has notified by order the holder of the direct
7 retail endorsement when a violation of subsection (1) of this section
8 has occurred. The notification must specify the type of violation, the
9 liability to be imposed for damages caused by the violation, a notice
10 that the amount of liability is due and payable by the holder of the
11 direct retail endorsement, and an explanation of the options available
12 to satisfy the liability; and

13 (b) The holder of the direct retail endorsement has had at least
14 ninety days after the notification provided in (a) of this subsection
15 was received to either make full payment for all liabilities owed or
16 enter into an agreement with the department to pay off all liabilities
17 within a reasonable time.

18 (3)(a) If, within ninety days after receipt of the order provided
19 in subsection (2)(a) of this section, the amount specified in the order
20 is not paid or the holder of the direct retail endorsement has not
21 entered into an agreement with the department to pay off all
22 liabilities, the prosecuting attorney for any county in which the
23 persons to whom the order is directed do business, or the attorney
24 general upon request of the department, may bring an action on behalf
25 of the state in the superior court for Thurston county, or any county
26 in which the persons to whom the order is directed do business, to seek
27 suspension of the individual's direct retail endorsement for up to five
28 years.

29 (b) The department may temporarily suspend the privileges provided
30 by the direct retail endorsement for up to one hundred twenty days
31 following the receipt of the order provided in subsection (2)(a) of
32 this section, unless the holder of the direct retail endorsement has
33 deposited with the department an acceptable performance bond on forms
34 prescribed and provided by the department. This performance bond must
35 be a corporate surety bond executed in favor of the department by a
36 corporation authorized to do business in the state of Washington under
37 chapter 48.28 RCW and approved by the department. The bond must be
38 filed and maintained in an amount equal to one thousand dollars.

1 (4) For violations of state board of health and local rules under
2 subsection (1)(b) of this section only, any person inspecting the
3 facilities of a direct retail endorsement holder under RCW 77.65.515
4 may suspend the privileges granted by the endorsement for up to seven
5 days. Within twenty-four hours of the discovery of the violation, the
6 inspecting entity must notify the department of the violation. Upon
7 notification, the department may proceed with the procedures outlined
8 in this section for suspension of the endorsement. If the violation of
9 a state board of health rule is discovered by a local health
10 department, that local jurisdiction may fine the holder of the direct
11 retail endorsement according to the local jurisdiction's rules as they
12 apply to retail food operations.

13 (5) Subsections (2) and (3) of this section do not apply to a
14 holder of a direct retail endorsement that executes a surety bond and
15 abides by the conditions established in RCW 77.65.320 and 77.65.330 as
16 they apply to wholesale dealers.

17 **Sec. 4.** RCW 36.71.090 and 2002 c 301 s 9 are each amended to read
18 as follows:

19 (1) It shall be lawful for any farmer, gardener, or other person,
20 without license, to sell, deliver, or peddle any fruits, vegetables,
21 berries, eggs, or any farm produce or edibles raised, gathered,
22 produced, or manufactured by such person and no city or town shall pass
23 or enforce any ordinance prohibiting the sale by or requiring license
24 from the producers and manufacturers of farm produce and edibles as
25 herein defined(~~(:—PROVIDED, That)~~). However, nothing ((herein)) in
26 this section authorizes any person to sell, deliver, or peddle, without
27 license, in any city or town, any dairy product, meat, poultry, eel,
28 fish, mollusk, or shellfish where a license is required to engage
29 legally in such activity in such city or town.

30 (2) It is lawful for an individual in possession of a valid direct
31 retail endorsement, as established in RCW 77.65.510, to sell, deliver,
32 or peddle wild-caught salmon, sturgeon, tuna, or crab that is caught,
33 harvested, or collected under rule of the department of fish and
34 wildlife by such a person at a temporary food service establishment, as
35 that term is defined in RCW 69.06.045, and no city, town, or county may
36 pass or enforce an ordinance prohibiting the sale by or requiring
37 additional licenses or permits from the holder of the valid direct

1 retail endorsement. However, this subsection does not prohibit a city,
2 town, or county from inspecting an individual displaying a direct
3 retail endorsement to verify that the person is in compliance with
4 state board of health and local rules for food service operations.

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