

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 2593

Chapter 193, Laws of 2010

61st Legislature
2010 Regular Session

SHELLFISH RESOURCE MANAGEMENT

EFFECTIVE DATE: 06/10/10

Passed by the House March 6, 2010
Yeas 63 Nays 31

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate March 2, 2010
Yeas 42 Nays 3

BRAD OWEN

President of the Senate

Approved March 24, 2010, 1:50 p.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 2593** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER

Chief Clerk

FILED

March 24, 2010

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 2593

AS AMENDED BY THE SENATE

Passed Legislature - 2010 Regular Session

State of Washington 61st Legislature 2010 Regular Session

By House Agriculture & Natural Resources (originally sponsored by Representatives Rolfes, Morris, Upthegrove, Williams, Lias, White, and Nelson)

READ FIRST TIME 02/03/10.

1 AN ACT Relating to creating tools to enhance the department of fish
2 and wildlife's ability to manage shellfish resources; amending RCW
3 77.70.500, 77.15.520, 77.15.380, 63.21.080, 77.12.865, 77.12.870,
4 77.15.750, 77.55.041, 77.32.430, 77.70.350, 77.70.150, 77.70.190,
5 82.27.020, and 82.27.070; adding new sections to chapter 77.15 RCW;
6 prescribing penalties; and providing an expiration date.

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

8 NEW SECTION. **Sec. 1.** A new section is added to chapter 77.15 RCW
9 to read as follows:

10 (1) A person is guilty of the unlawful use of shellfish gear for
11 commercial purposes if the person:

12 (a) Takes, fishes for, or possesses crab, shrimp, or crawfish for
13 commercial purposes with shellfish gear that is constructed or altered
14 in a manner that violates any rule of the commission relating to
15 required gear design specifications; or

16 (b) Is found in possession of, upon any vessel located on the
17 waters of the state, shellfish gear that is constructed or altered in
18 a manner that violates any rule of the commission relating to required
19 gear design specifications, unless a person holds a valid crab pot

1 removal permit under RCW 77.70.500 and is in the process of
2 transporting removed crab pots as part of the Dungeness crab pot
3 removal program.

4 (2) The unlawful use of shellfish gear for commercial purposes is
5 a gross misdemeanor.

6 NEW SECTION. **Sec. 2.** A new section is added to chapter 77.15 RCW
7 to read as follows:

8 (1) A person is guilty of the unlawful use of shellfish gear for
9 personal use purposes if the person:

10 (a) Takes, fishes for, or possesses crab, shrimp, or crawfish for
11 personal use purposes with shellfish gear that is constructed or
12 altered in a manner that violates any rule of the commission relating
13 to required gear design specifications; or

14 (b) Is found in possession of, upon any vessel located on the
15 waters of the state, shellfish gear that is constructed or altered in
16 a manner that violates any rule of the commission relating to required
17 gear design specifications, unless a person holds a valid crab pot
18 removal permit under RCW 77.70.500 and is in the process of
19 transporting removed crab pots as part of the Dungeness crab pot
20 removal program.

21 (2) The unlawful use of shellfish gear for personal use purposes is
22 a misdemeanor.

23 **Sec. 3.** RCW 77.70.500 and 2009 c 355 s 1 are each amended to read
24 as follows:

25 (1)(a) As part of a coastal commercial Dungeness crab pot removal
26 program, the department shall issue a crab pot removal permit that
27 allows the participants in the Dungeness crab-coastal fishery created
28 in RCW 77.70.280 to remove crab pots belonging to state commercial
29 licensed crab fisheries from coastal marine waters after the close of
30 the primary commercial Dungeness crab-coastal harvest season,
31 regardless of whether the crab pot was originally set by the
32 participant or not.

33 (b) Beginning fifteen days after the close of the primary
34 commercial Dungeness crab-coastal harvest season, any individual with
35 a current commercial Dungeness crab-coastal license and a valid crab
36 pot removal permit issued by the department may remove a crab pot or

1 crab pots used to harvest Dungeness crabs remaining in coastal marine
2 waters after the close of the primary commercial Dungeness crab-coastal
3 harvest season.

4 (c) In cooperation with individuals with a current commercial
5 Dungeness crab-coastal license, the department may expand the coastal
6 commercial Dungeness crab pot removal program to those areas closed to
7 commercial Dungeness crab harvest prior to the end of the primary
8 season.

9 (d) Nothing in this section prohibits the department from exempting
10 certain crab pots from the coastal commercial Dungeness crab pot
11 removal program or from restricting crab pot removal activities to
12 specific geographic areas.

13 ~~((e) The department may adopt rules to implement this subsection~~
14 ~~(1).))~~

15 (2)(a) The department may expand the crab pot removal program to
16 allow for the removal of shellfish pots belonging to state commercial
17 or recreational licensed shellfish fisheries from Puget Sound waters
18 during shellfish harvest closures, regardless of whether the shellfish
19 pot was originally set by the permittee or not.

20 (b) If the department expands the program to Puget Sound waters,
21 the department shall limit the program as necessary to streamline
22 implementation, minimize the oversight burden on fish and wildlife
23 enforcement officers, minimize interference with lawful fisheries and
24 other user groups, minimize administrative overhead cost, and avoid the
25 collection of shellfish pots that are not abandoned. The program may
26 be limited as deemed appropriate by the department, including
27 limitations on:

- 28 (i) The number of participants;
- 29 (ii) The eligible geographic areas in Puget Sound where shellfish
30 pots may be recovered;
- 31 (iii) The types of shellfish pots that may be recovered;
- 32 (iv) The maximum or minimum depth where a shellfish pot must be
33 located to be eligible for recovery; and
- 34 (v) The ports through which the vessels collecting the abandoned
35 shellfish pots may operate.

36 (3) The department may adopt rules to implement subsections (1) and
37 (2) of this section.

1 (4)(a) The following are exempt from complying with the lost and
2 found property provisions in chapter 63.21 RCW:

3 (i) An individual participating in permitted crab pot removal
4 activities in coastal marine waters who has a valid crab pot removal
5 permit, and who adheres to the provisions of the permit as they relate
6 to crab pot removal(~~(, is exempt from complying with the lost and found~~
7 property provisions in chapter 63.21 RCW.)); and

8 (ii) An individual participating in permitted shellfish pot removal
9 activities in Puget Sound waters who has a valid shellfish pot removal
10 permit and who adheres to the provisions of the permit as they relate
11 to shellfish pot removal.

12 (b) The individual who removes (~~the crab~~) a shellfish pot under
13 a valid crab pot removal permit or a valid shellfish pot removal permit
14 takes the property free and clear of all claims of the owner or
15 previous holder and free and clear of all individuals claiming
16 ownership under the previous owner.

17 ~~((3)(a) A person is guilty of unlawful use of a crab pot removal~~
18 ~~permit if the person:~~

19 ~~(i) Violates any terms or conditions of the permit issued under~~
20 ~~this section; or~~

21 ~~(ii) Violates any rule of the department applicable to the~~
22 ~~requirement for, issuance of, or use of the permit.~~

23 ~~(b) Unlawful use of a crab pot removal permit is a misdemeanor.))~~

24 (5) A violation of this section, or any rules or permit conditions
25 provided under this section, is punishable as provided in RCW
26 77.15.750.

27 (6) Individuals who remove shellfish pots under a valid crab pot
28 removal permit or a valid shellfish pot removal permit in accordance
29 with this section are not subject to permitting under RCW 77.55.021.

30 **Sec. 4.** RCW 77.15.520 and 1998 c 190 s 37 are each amended to read
31 as follows:

32 (1) Except for actions involving shellfish gear punishable under
33 section 1 of this act, a person is guilty of commercial fishing using
34 unlawful gear or methods if the person acts for commercial purposes and
35 takes or fishes for any fish or shellfish using any gear or method in
36 violation of a rule of the (~~department~~) commission specifying,

1 regulating, or limiting the gear or method for taking, fishing, or
2 harvesting of such fish or shellfish.

3 (2) Commercial fishing using unlawful gear or methods is a gross
4 misdemeanor.

5 **Sec. 5.** RCW 77.15.380 and 2001 c 253 s 39 are each amended to read
6 as follows:

7 (1) A person is guilty of unlawful recreational fishing in the
8 second degree if the person fishes for, takes, possesses, or harvests
9 fish or shellfish and:

10 (a) The person does not have and possess the license or the catch
11 record card required by chapter 77.32 RCW for such activity; or

12 (b) The action violates any rule of the commission or the director
13 regarding seasons, bag or possession limits but less than two times the
14 bag or possession limit, closed areas, closed times, or any other rule
15 addressing the manner or method of fishing or possession of fish,
16 except for use of a net to take fish as provided for in RCW 77.15.580
17 and the unlawful use of shellfish gear for personal use as provided in
18 section 2 of this act.

19 (2) Unlawful recreational fishing in the second degree is a
20 misdemeanor.

21 **Sec. 6.** RCW 63.21.080 and 2009 c 355 s 2 are each amended to read
22 as follows:

23 This chapter shall not apply to:

- 24 (1) Motor vehicles under chapter 46.52 RCW;
- 25 (2) Unclaimed property in the hands of a bailee under chapter 63.24
26 RCW;
- 27 (3) Uniform disposition of unclaimed property under chapter 63.29
28 RCW;
- 29 (4) Secured vessels under chapter 79A.65 RCW; and
- 30 (5) Crab or other shellfish pots in coastal marine or Puget Sound
31 waters under RCW 77.70.500.

32 **Sec. 7.** RCW 77.12.865 and 2005 c 146 s 1004 are each amended to
33 read as follows:

34 (1) As used in this section and RCW 77.12.870, "derelict fishing
35 gear" includes lost or abandoned fishing nets, fishing lines, (~~crab~~

1 ~~pots, shrimp pots,~~) and other commercial and recreational fishing
2 equipment. The term does not include lost or abandoned vessels or
3 shellfish pots.

4 (2) The department, in partnership with the Northwest straits
5 commission, the department of natural resources, and other interested
6 parties, must publish guidelines for the safe removal and disposal of
7 derelict fishing gear. The guidelines (~~must be completed by August~~
8 ~~31, 2002, and~~) may be updated as deemed necessary by the department.
9 The guidelines must be made available to any person interested in
10 derelict fishing gear removal.

11 (3) Derelict fishing gear removal conducted in accordance with the
12 guidelines prepared in subsection (2) of this section is not subject to
13 permitting under RCW 77.55.021.

14 **Sec. 8.** RCW 77.12.870 and 2009 c 333 s 21 are each amended to read
15 as follows:

16 (1) The department, in (~~consultation with the Northwest straits~~
17 ~~commission, the department of natural resources, and other interested~~
18 ~~parties, must create and maintain a database of known derelict fishing~~
19 ~~gear~~) partnership with the Northwest straits commission, the
20 department of natural resources, and other interested parties, must
21 create and ensure the maintenance of a database of known derelict
22 fishing gear and shellfish pots, including the type of gear and its
23 location.

24 (2) A person who loses or abandons commercial fishing gear or
25 shellfish pots within the waters of the state is encouraged to report
26 the location of the loss and the type of gear lost to the department
27 within forty-eight hours of the loss.

28 **Sec. 9.** RCW 77.15.750 and 2009 c 333 s 14 are each amended to read
29 as follows:

30 (1) A person is guilty of unlawful use of a department permit if
31 the person:

32 (a) Violates any terms or conditions of the permit issued by the
33 department or the director; or

34 (b) Violates any rule of the commission or the director applicable
35 to the requirement for, issuance of, or use of the permit.

1 (2)(a) Permits covered under subsection (1) of this section
2 include, but are not limited to, master hunter permits, crab pot
3 removal permits and shellfish pot removal permits under RCW 77.70.500,
4 depredation permits, landowner hunting permits, commercial carp license
5 permits, permits to possess or dispense beer or malt liquor pursuant to
6 RCW 66.28.210, and permits to hold, sponsor, or attend an event
7 requiring a banquet permit from the liquor control board.

8 (b) Permits excluded from subsection (1) of this section include
9 fish and wildlife lands vehicle use permits, commercial use or activity
10 permits, noncommercial use or activity permits, parking permits,
11 experimental fishery permits, trial commercial fishery permits, and
12 scientific collection permits.

13 (3) Unlawful use of a department permit is a misdemeanor.

14 (4) A person is guilty of unlawful use of an experimental fishery
15 permit or a trial commercial fishery permit if the person:

16 (a) Violates any terms or conditions of the permit issued by the
17 department or the director; or

18 (b) Violates any rule of the commission or the director applicable
19 to the issuance or use of the permit.

20 (5) Unlawful use of an experimental fishery permit or a trial
21 commercial fishery permit is a gross misdemeanor.

22 (6) The definitions in this subsection apply throughout this
23 section unless the context clearly requires otherwise.

24 (a) "Experimental fishery permit" means a permit issued by the
25 director for either:

26 (i) An "emerging commercial fishery," defined as a fishery for a
27 newly classified species for which the department has determined that
28 there is a need to limit participation; or

29 (ii) An "expanding commercial fishery," defined as a fishery for a
30 previously classified species in a new area, by a new method, or at a
31 new effort level, for which the department has determined that there is
32 a need to limit participation.

33 (b) "Trial commercial fishery permit" means a permit issued by the
34 department for trial harvest of a newly classified species or harvest
35 of a previously classified species in a new area or by a new means.

36 **Sec. 10.** RCW 77.55.041 and 2005 c 146 s 302 are each amended to
37 read as follows:

1 (1) The removal of derelict fishing gear does not require a permit
2 under this chapter if the gear is removed according to the guidelines
3 described in RCW 77.12.865.

4 (2) The removal of crab and other shellfish gear does not require
5 a permit under this chapter if the gear is removed under a permit
6 issued pursuant to RCW 77.70.500.

7 **Sec. 11.** RCW 77.32.430 and 2009 c 333 s 40 are each amended to
8 read as follows:

9 (1) Catch record card information is necessary for proper
10 management of the state's food fish and game fish species and shellfish
11 resources. Catch record card administration shall be under rules
12 adopted by the commission. There is no charge for an initial catch
13 record card. Each subsequent or duplicate catch record card costs ten
14 dollars.

15 (2) A license to take and possess Dungeness crab is only valid in
16 Puget Sound waters east of the Bonilla-Tatoosh line if the fisher has
17 in possession a valid catch record card officially endorsed for
18 Dungeness crab. The endorsement shall cost no more than three dollars,
19 including any or all fees authorized under RCW 77.32.050, when
20 purchased for a personal use saltwater, combination, or shellfish and
21 seaweed license. The endorsement shall cost no more than one dollar,
22 including any or all fees authorized under RCW 77.32.050, when
23 purchased for a temporary combination fishing license authorized under
24 RCW 77.32.470(3)(a).

25 (3) Catch record cards issued with affixed temporary short-term
26 charter stamp licenses are not subject to the ten-dollar charge nor to
27 the Dungeness crab endorsement fee provided for in this section.
28 Charter boat or guide operators issuing temporary short-term charter
29 stamp licenses shall affix the stamp to each catch record card issued
30 before fishing commences. Catch record cards issued with a temporary
31 short-term charter stamp are valid for one day.

32 (4) The department shall include provisions for recording marked
33 and unmarked salmon in catch record cards issued after March 31, 2004.

34 (5)(a) The funds received from the sale of catch record cards and
35 the Dungeness crab endorsement must be deposited into the state
36 wildlife account created in RCW 77.12.170. The funds received from the
37 Dungeness crab endorsement may be used only for the sampling,

1 monitoring, and management of catch associated with the Dungeness crab
2 recreational fisheries. Until June 30, 2011, funds received from the
3 Dungeness crab endorsement may be used for the removal and disposal of
4 derelict shellfish gear either directly by the department or under
5 contract with a third party.

6 (b) Moneys allocated under this section shall supplement and not
7 supplant other federal, state, and local funds used for Dungeness crab
8 recreational fisheries management.

9 NEW SECTION. Sec. 12. (1) The department of fish and wildlife
10 shall, in cooperation with stakeholders in the recreational and
11 commercial crab fisheries and other knowledgeable individuals, as
12 deemed appropriate by the director of the department, deliver to the
13 appropriate committees of the legislature findings and recommendations
14 relating to the following topics:

15 (a) The scope of the derelict shellfish gear problem in Washington
16 waters, including estimates of the existing quantity of derelict gear
17 and estimates of annual shellfish gear loss;

18 (b) The cost of recovering and disposing of derelict shellfish
19 gear;

20 (c) Technical and legal barriers to recovering and disposing of
21 derelict shellfish gear;

22 (d) Possible public education efforts to prevent future shellfish
23 gear loss and to promote compliance with required gear specifications;

24 (e) Possible changes to the current funding structure for derelict
25 shellfish gear removal and Dungeness crab sampling, monitoring, and
26 management, which may include the termination or alteration of the
27 existing Dungeness crab endorsement required under RCW 77.32.430 and
28 the identification of possible new funding sources.

29 (2) If deemed practicable by the director of the department of fish
30 and wildlife, the findings and recommendations included in the report
31 required in this section should be informed by the actual collection of
32 derelict shellfish pots.

33 (3) Findings and recommendations required under this section must
34 be submitted consistent with RCW 43.01.036 by December 31, 2010.

35 (4) This section expires July 31, 2011.

1 **Sec. 13.** RCW 77.70.350 and 2006 c 159 s 1 are each amended to read
2 as follows:

3 (1) The following restrictions apply to vessel designations and
4 substitutions on Dungeness crab-coastal fishery licenses:

5 (a) The holder of the license may not:

6 (i) Designate on the license a vessel the hull length of which
7 exceeds ninety-nine feet; or

8 (ii) Change vessel designation if the hull length of the vessel
9 proposed to be designated exceeds the hull length designated on the
10 license on June 7, 2006, by more than ten feet. However, if such
11 vessel designation is the result of an emergency transfer, the
12 applicable vessel length would be the most recent permanent vessel
13 designation on the license prior to June 7, 2006;

14 (b) If the hull length of the vessel proposed to be designated is
15 comparable to or exceeds by up to one foot the hull length of the
16 currently designated vessel, the department may change the vessel
17 designation no more than once in any (~~two consecutive Washington state~~
18 ~~coastal crab seasons~~) one-year period, measured from September 15th to
19 September 15th of the following year, unless the currently designated
20 vessel is lost or in disrepair such that it does not safely operate, in
21 which case the department may allow a change in vessel designation;

22 (c) If the hull length of the vessel proposed to be designated
23 exceeds by between one and ten feet the hull length of the designated
24 vessel on June 7, 2006, the department may change the vessel
25 designation no more than once on or after June 7, 2006, unless a
26 request is made by the license holder during a Washington state coastal
27 crab season for an emergency change in vessel designation. If such an
28 emergency request is made, the director may allow a temporary change in
29 designation to another vessel, if the hull length of the other vessel
30 does not exceed by more than ten feet the hull length of the currently
31 designated vessel.

32 (2) For the purposes of this section, "hull length" means the
33 length overall of a vessel's hull as shown by marine survey or by
34 manufacturer's specifications.

35 (3) By December 31, 2010, the department must, in cooperation with
36 the coastal crab fishing industry, evaluate the effectiveness of this
37 section and, if necessary, recommend any statutory changes to the
38 appropriate committees of the senate and house of representatives.

1 **Sec. 14.** RCW 77.70.150 and 2005 c 110 s 1 are each amended to read
2 as follows:

3 (1) A sea urchin dive fishery license is required to take sea
4 urchins for commercial purposes. A sea urchin dive fishery license
5 authorizes the use of only one diver in the water at any time during
6 sea urchin harvest operations. If the same vessel has been designated
7 on two sea urchin dive fishery licenses, two divers may be in the
8 water. A natural person may not hold more than two sea urchin dive
9 fishery licenses.

10 (2) Except as provided in subsection (6) of this section, the
11 director shall issue no new sea urchin dive fishery licenses. For
12 licenses issued for the year 2000 and thereafter, the director shall
13 renew existing licenses only to a natural person who held the license
14 at the end of the previous year. If a sea urchin dive fishery license
15 is not held by a natural person as of December 31, 1999, it is not
16 renewable. However, if the license is not held because of revocation
17 or suspension of licensing privileges, the director shall renew the
18 license in the name of a natural person at the end of the revocation or
19 suspension if the license holder applies for renewal of the license
20 before the end of the year in which the revocation or suspension ends.

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

26 (4) Surcharges as provided for in this section shall be collected
27 and deposited into the sea urchin dive fishery account hereby created
28 in the custody of the state treasurer. The collections and deposits
29 must continue, as set forth in (a) and (b) of this subsection, through
30 license year 2013, or until the number of licenses is reduced to
31 twenty, whichever occurs first. Only the director or the director's
32 designee may authorize expenditures from the account. The sea urchin
33 dive fishery account is subject to allotment procedures under chapter
34 43.88 RCW, but no appropriation is required for expenditures.
35 Expenditures from the account shall only be used to retire sea urchin
36 licenses until the number of licenses is reduced to ((~~twenty-five~~))
37 twenty, and thereafter shall only be used for sea urchin management and

1 enforcement. The director or the director's designee shall notify the
2 department of revenue within thirty days when the number of licenses is
3 reduced to twenty.

4 (a) A surcharge of one hundred dollars shall be charged with each
5 sea urchin dive fishery license renewal for licenses issued ~~((in))~~ for
6 license years 2000 through ~~((2010))~~ 2013, or until the number of
7 licenses is reduced to twenty, whichever occurs first.

8 (b) For licenses issued for ~~((the year))~~ license years 2000 ~~((and~~
9 ~~thereafter,))~~ through 2013, or until the number of licenses is reduced
10 to twenty, whichever occurs first, a surcharge shall be charged on the
11 sea urchin dive fishery license for designating an alternate operator.
12 The surcharge shall be as follows: Five hundred dollars for the first
13 year or each of the first two consecutive years after 1999 that any
14 alternate operator is designated and two thousand five hundred dollars
15 each year thereafter that any alternate operator is designated.

16 (5) Sea urchin dive fishery licenses are transferable. ~~((After~~
17 ~~December 31, 1999,))~~ For licenses issued for license years 2000 through
18 2013, or whenever the number of licenses is reduced to twenty,
19 whichever occurs first, there is a surcharge to transfer a sea urchin
20 dive fishery license. The surcharge is five hundred dollars for the
21 first transfer of a license valid for ~~((calendar))~~ license year 2000,
22 and two thousand five hundred dollars for any subsequent transfer,
23 ~~((whether))~~ occurring in the ~~((year))~~ license years 2000 ~~((or~~
24 ~~thereafter))~~ through 2013, or whenever the number of licenses is
25 reduced to twenty, whichever occurs first. Notwithstanding this
26 subsection, a one-time transfer exempt from surcharge applies for a
27 transfer from the natural person licensed on January 1, 2000, to that
28 person's spouse or child.

29 (6) If fewer than ~~((twenty-five))~~ twenty natural persons are
30 eligible for sea urchin dive fishery licenses, the director may accept
31 applications for new licenses. The additional licenses may not cause
32 more than ~~((twenty-five))~~ twenty natural persons to be eligible for a
33 sea urchin dive fishery license. New licenses issued under this
34 section shall be distributed according to rules of the department that
35 recover the value of such licensed privilege.

36 **Sec. 15.** RCW 77.70.190 and 2005 c 110 s 2 are each amended to read
37 as follows:

1 (1) A sea cucumber dive fishery license is required to take sea
2 cucumbers for commercial purposes. A sea cucumber dive fishery license
3 authorizes the use of only one diver in the water at any time during
4 sea cucumber harvest operations. If the same vessel has been
5 designated on two sea cucumber dive fishery licenses, two divers may be
6 in the water. A natural person may not hold more than two sea cucumber
7 dive fishery licenses.

8 (2) Except as provided in subsection (6) of this section, the
9 director shall issue no new sea cucumber dive fishery licenses. For
10 licenses issued for the year 2000 and thereafter, the director shall
11 renew existing licenses only to a natural person who held the license
12 at the end of the previous year. If a sea cucumber dive fishery
13 license is not held by a natural person as of December 31, 1999, it is
14 not renewable. However, if the license is not held because of
15 revocation or suspension of licensing privileges, the director shall
16 renew the license in the name of a natural person at the end of the
17 revocation or suspension if the license holder applies for renewal of
18 the license before the end of the year in which the revocation or
19 suspension ends.

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

25 (4) Surcharges as provided for in this section shall be collected
26 and deposited into the sea cucumber dive fishery account hereby created
27 in the custody of the state treasurer. The collections and deposits
28 must continue, as set forth in (a) and (b) of this subsection, through
29 license year 2013, or until the number of licenses is reduced to
30 twenty, whichever occurs first. Only the director or the director's
31 designee may authorize expenditures from the account. The sea cucumber
32 dive fishery account is subject to allotment procedures under chapter
33 43.88 RCW, but no appropriation is required for expenditures.
34 Expenditures from the account shall only be used to retire sea cucumber
35 licenses until the number of licenses is reduced to (~~twenty-five~~)
36 twenty, and thereafter shall only be used for sea cucumber management
37 and enforcement. The director or the director's designee shall notify

1 the department of revenue within thirty days when the number of
2 licenses is reduced to twenty.

3 (a) A surcharge of one hundred dollars shall be charged with each
4 sea cucumber dive fishery license renewal for licenses issued in 2000
5 through ~~((2010))~~ 2013, or until the number of licenses is reduced to
6 twenty, whichever occurs first.

7 (b) For licenses issued for ~~((the year))~~ license years 2000 ~~((and~~
8 ~~thereafter,))~~ through 2013, or until the number of licenses is reduced
9 to twenty, whichever occurs first, a surcharge shall be charged on the
10 sea cucumber dive fishery license for designating an alternate
11 operator. The surcharge shall be as follows: Five hundred dollars for
12 the first year or each of the first two consecutive years after 1999
13 that any alternate operator is designated and two thousand five hundred
14 dollars each year thereafter that any alternate operator is designated.

15 (5) Sea cucumber dive fishery licenses are transferable. ~~((After~~
16 ~~December 31, 1999,))~~ For licenses issued for license years 2000 through
17 2013, or whenever the number of licenses is reduced to twenty,
18 whichever occurs first, there is a surcharge to transfer a sea cucumber
19 dive fishery license. The surcharge is five hundred dollars for the
20 first transfer of a license valid for ~~((calendar))~~ license year 2000
21 and two thousand five hundred dollars for any subsequent transfer
22 ~~((whether)),~~ occurring in the ~~((year))~~ license years 2000 ~~((or~~
23 ~~thereafter))~~ through 2013, or whenever the number of licenses is
24 reduced to twenty, whichever occurs first. Notwithstanding this
25 subsection, a one-time transfer exempt from surcharge applies for a
26 transfer from the natural person licensed on January 1, 2000, to that
27 person's spouse or child.

28 (6) If fewer than ~~((twenty-five))~~ twenty persons are eligible for
29 sea cucumber dive fishery licenses, the director may accept
30 applications for new licenses. The additional licenses may not cause
31 more than ~~((twenty-five))~~ twenty natural persons to be eligible for a
32 sea cucumber dive fishery license. New licenses issued under this
33 section shall be distributed according to rules of the department that
34 recover the value of such licensed privilege.

35 **Sec. 16.** RCW 82.27.020 and 2005 c 110 s 3 are each amended to read
36 as follows:

37 (1) In addition to all other taxes, licenses, or fees provided by

1 law there is established an excise tax on the commercial possession of
2 enhanced food fish as provided in this chapter. The tax is levied upon
3 and shall be collected from the owner of the enhanced food fish whose
4 possession constitutes the taxable event. The taxable event is the
5 first possession in Washington by an owner after the enhanced food fish
6 has been landed. Processing and handling of enhanced food fish by a
7 person who is not the owner is not a taxable event to the processor or
8 handler.

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

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

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

17 (a) Chinook, coho, and chum salmon and anadromous game fish: Five
18 and twenty-five one-hundredths percent;

19 (b) Pink and sockeye salmon: Three and fifteen one-hundredths
20 percent;

21 (c) Other food fish and shellfish, except oysters, sea urchins, and
22 sea cucumbers: Two and one-tenth percent;

23 (d) Oysters: Eight one-hundredths of one percent;

24 (e) Sea urchins: Four and six-tenths percent through December 31,
25 ~~((2010))~~ 2013, or until the department of fish and wildlife notifies
26 the department that the number of sea urchin licenses has been reduced
27 to twenty licenses, whichever occurs first, and two and one-tenth
28 percent thereafter; and

29 (f) Sea cucumbers: Four and six-tenths percent through December
30 31, ~~((2010))~~ 2013, or until the department of fish and wildlife
31 notifies the department that the number of sea cucumber licenses has
32 been reduced to twenty licenses, whichever occurs first, and two and
33 one-tenth percent thereafter.

34 (5) An additional tax is imposed equal to the rate specified in RCW
35 82.02.030 multiplied by the tax payable under subsection (4) of this
36 section.

1 **Sec. 17.** RCW 82.27.070 and 2005 c 110 s 4 are each amended to read
2 as follows:

3 All taxes collected by the department of revenue under this chapter
4 shall be deposited in the state general fund except for the excise tax
5 on anadromous game fish, which shall be deposited in the state wildlife
6 ~~((fund, and, during the period))~~ account. From January 1, 2000, to
7 December 31, ~~((2010))~~ 2013, or until the department of fish and
8 wildlife notifies the department that the license reduction goals of
9 the sea urchin or sea cucumber fishery have been met, whichever occurs
10 first, twenty-five forty-sixths of the revenues derived from the excise
11 tax on sea urchins collected under RCW 82.27.020 shall be deposited
12 into the sea urchin dive fishery account created in RCW 77.70.150, and
13 twenty-five forty-sixths of the revenues derived from the excise tax on
14 sea cucumbers collected under RCW 82.27.020 shall be deposited into the
15 sea cucumber dive fishery account created in RCW 77.70.190.

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