

HOUSE BILL REPORT

HB 1610

As Reported by House Committee On:
Rural Development, Agriculture, & Natural Resources

Title: An act relating to compensation for lost or damaged commercial and treaty fishing gear.

Brief Description: Concerning compensation for lost or damaged commercial and treaty fishing gear.

Sponsors: Representatives Lekanoff, Walsh, Blake, Chapman, Doglio, Shewmake, Peterson, Ortiz-Self, Pollet and Leavitt.

Brief History:

Committee Activity:

Rural Development, Agriculture, & Natural Resources: 2/8/19, 2/20/19 [DPS].

Brief Summary of Substitute Bill

- Directs the Department of Fish and Wildlife, in consultation with others, to conduct a study of lost and damaged commercial and treaty fishing gear, and to establish a pilot program to track potential fishing gear damage and loss.
- Creates a compensation program for certain lost or damaged fishing gear belonging to commercial and tribal fishers who participate in the pilot program.
- Creates the Commercial and Treaty Fisher's Gear Compensation Account as a nonappropriated account in the State Treasury.

HOUSE COMMITTEE ON RURAL DEVELOPMENT, AGRICULTURE, & NATURAL RESOURCES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Blake, Chair; Shewmake, Vice Chair; Chapman, Fitzgibbon, Lekanoff, Pettigrew, Ramos, Springer and Walsh.

Minority Report: Do not pass. Signed by 4 members: Representatives Chandler, Ranking Minority Member; Dye, Orcutt and Schmick.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Minority Report: Without recommendation. Signed by 2 members: Representatives Dent, Assistant Ranking Minority Member; Kretz.

Staff: Rebecca Lewis (786-7339).

Background:

The Department of Fish and Wildlife operates under a legislative mandate to preserve, protect, perpetuate, and manage the state's fish and wildlife populations. Such responsibilities include regulating the time, place, and manner of fishing and hunting activities, and requiring licenses for recreational and commercial purposes. The authority to regulate fishing and shellfish activities does not apply directly to certain tribal fishing activities.

Treaties enacted in the 1850s between the United States and Indian tribes in the Washington territory reserved certain rights to the tribes, including the right to manage and harvest fish and shellfish.

Summary of Substitute Bill:

Fishing Gear Loss Study and Pilot Program.

The Department of Fish and Wildlife (DFW), in consultation with the departments of Commerce and Natural Resources, must conduct a study of the extent of commercial or treaty fishing gear that has been lost or damaged as a result of contact with other vessels in Puget Sound and the Strait of Juan de Fuca. As a part of the study, the DFW must establish a pilot program to coordinate with willing fishers to track potential fishing gear damage and loss. The DFW must conduct the pilot in geographic locations that are most likely to provide a comprehensive understanding of the scope of fishing gear damage, and must require gear to be equipped with global positioning system technology. The DFW may furnish wireless transponders to place on fishing gear to assist with data collection. The DFW must report its findings by October 31, 2021, to the standing committees of the House of Representatives and Senate with jurisdiction over fisheries, water quality, and aquatic lands. The pilot program expires on December 31, 2021.

Compensation for Lost or Damaged Fishing Gear.

The Fish and Wildlife Commission (Commission) must establish a program by rule to compensate commercial and treaty fishers who are Washington residents and enrolled in the Fishing Gear Loss pilot program for crab gear that has been lost or damaged as a result of contact with vessels in Puget Sound and the Strait of Juan de Fuca. A claim minimum of \$275 is established. Rules adopted by the Commission must include the following requirements:

- Claims must be made to the DFW no later than 30 days after the fisher became aware of the loss or damage, and the DFW must acknowledge receipt of any claim within 15 days.

- Compensation is limited to the actual purchase or repair cost of the crab gear, as demonstrated by receipts, estimates of costs of repair, or a sworn affidavit.
- Compensation is not available for any damaged or lost crab gear covered by insurance or located within a shipping channel, a general anchorage area, or a precautionary area, as established on a navigational chart published by the National Oceanic and Atmospheric Administration. Additionally, a commercial or treaty fisher may not claim compensation for any gear damage or loss.
- In order to be eligible for compensation, a person must provide:
 - copies of all relevant licenses and vessel registration information;
 - location of the fishing gear at the time of loss or damage;
 - a complete description of all lost or damaged fishing gear;
 - a complete description, to the extent known, of the incident that caused the damage; and
 - any receipts, estimates of repair costs, or sworn affidavits establishing the actual purchase cost or cost to repair lost or damaged fishing gear.

The nonappropriated Commercial and Treaty Fisher's Gear Compensation Account (Account) is created in the State Treasury for compensation program funds. Expenditures from the Account may be made only for compensation of lost or damaged fishing gear for fishers participating in the pilot program. The DFW must pay claims at the end of each calendar year on a proportional basis, depending on available funds. A commercial or treaty fisher who files a claim may appeal the DFW decision if the claim is denied or if the fisher disagrees with the compensation amount determined by the DFW.

Substitute Bill Compared to Original Bill:

The scope of the compensation program is narrowed to apply to crab gear equipped with global positioning system (GPS) technology, and a claim minimum of \$275 is added. Latitude and longitude coordinates provided by a fisher to claim compensation for lost or damaged crab gear must be obtained from a GPS device affixed to the gear at the time of the damage or loss. The substitute bill also adds that a commercial or treaty fisher may not claim compensation for crab fishing gear damage or loss that occurs in established routes for Washington State ferries, tugs, commercial vessels, or log booms. The due date of the Department of Fish and Wildlife report is changed from June 30, 2021, to October 31, 2021, and the pilot project expiration date is changed from June 30, 2021, to December 31, 2021. The definition of "fishing gear" that applies to the pilot program is changed to mean any equipment that is used in the handling or harvesting of fish or shellfish, instead of living marine resources. Additionally, "vessels" is removed from the definition of fishing gear.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 21, 2019.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Commercial and treaty fishers have a valuable quality of life, and their contributions are important to rural economies. Fishers put global positioning system units on crab pots in order to track them. Crab pot loss is a significant problem, and gear can be expensive. As an example, a fisher can lose 20 or 100 pots, which amounts to a loss of about \$300 per pot. The fishers have absorbed that cost. Both of the industries need to exist. This bill is an opportunity to find out what the impacts to both industries are, and to address compensation, tracking, and accountability.

(Opposed) None.

(Other) This bill defines gear very broadly to include many kinds of fishing gear as well as vessels. The Department of Fish and Wildlife (DFW) recommends narrowing the bill to include just gear, and to not have the state reimburse damage to vessels. Because the pilot program expires after the next biennium and the compensation program does not, there will not be any eligible fishers to take part in the compensation program beyond the next biennium. The DFW would like to see the compensation program postponed until the study is complete. The DFW works with fishers to remove derelict gear. Replacement costs affect fishers' bottom line, so they are careful about where they set their gear. If there is an alternate claims process, it could motivate fishers to be less careful about where they put their gear.

Persons Testifying: (In support) Representative Lekanoff, prime sponsor; and Al Aldrich, Tulalip Tribes.

(Other) Nate Pamplin, Department of Fish and Wildlife.

Persons Signed In To Testify But Not Testifying: None.