

HOUSE BILL REPORT

ESHB 1471

As Passed House
March 13, 1993

Title: An act relating to non-Puget Sound coastal commercial crab fishery.

Brief Description: Regulating the non-Puget Sound coastal commercial crab fishery.

Sponsors: By House Committee on Fisheries & Wildlife (originally sponsored by Representatives King, Basich, Orr, Fuhrman, Brumsickle, Foreman and G. Cole.)

Brief History:

Reported by House Committee on:
Fisheries & Wildlife, February 25, 1993, DPS;
Appropriations, March 6, 1993, DPS(FW-A APP);
Passed House, March 13, 1993, 96-0.

HOUSE COMMITTEE ON FISHERIES & WILDLIFE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives King, Chair; Orr, Vice Chair; Fuhrman, Ranking Minority Member; Sehlin, Assistant Ranking Minority Member; Basich; Chappell; Foreman; Lemmon; and Scott.

Staff: Keitlyn Watson (786-7310).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The substitute bill by Committee on Fisheries & Wildlife be substituted therefor and the substitute bill as amended by Committee on Appropriations do pass. Signed by 21 members: Representatives Locke, Chair; Valle, Vice Chair; Silver, Ranking Minority Member; Carlson, Assistant Ranking Minority Member; Ballasiotes; Basich; Cooke; Dunshee; G. Fisher; Jacobsen; Lemmon; Leonard; Linville; Peery; Rust; Sehlin; Sheahan; Stevens; Talcott; Wang; and Wolfe.

Staff: Susan Nakagawa (786-7145).

Background: Dungeness crab fishing in Washington occurs in Puget Sound, the Washington coast including Grays Harbor and Willapa Harbor, and the ocean beyond three miles from the shore. The Department of Fisheries (WDF) regulates the crab fishery inside Washington waters, and requires a crab pot license. The state does not regulate the fishery outside of state waters, i.e., beyond three miles from the shore. A shellfish delivery permit is required of vessels landing crab in Washington, whether the crab were harvested within or outside of Washington waters.

In 1980, in response to an increasing commercial crab fishery in Puget Sound, the Legislature limited entry into the Dungeness crab fishery in the Sound by imposing landing requirements on vessels which could remain in the fishery. The maximum number of participating vessels in the fishery was set at 200.

In 1992, the Legislature directed WDF to participate in a coast-wide study of the Dungeness crab fishery, conducted by the Pacific States Marine Fisheries Commission, to report on the current and optimum numbers of fishers, vessels, licenses, and gear in the coastal crab fishery of each state and on the pros and cons of establishing future limits on the issuance of coastal crab licenses. A Tri-State Committee, including representatives of the states of Oregon, California, and Washington, are guiding and conducting the study. This study, including recommendations, is due to the Legislature by June 30, 1993, and is not yet complete.

Preliminary WDF estimates state that approximately 235 vessels landed crab in Washington in the 1991-1992 season, for a total of 7,460,962 pounds of crab. Approximately 480 different vessels made at least one landing between 1988 and 1991.

Summary of Bill:

Coastal Crab Pot License Requirements for Vessels

A coastal crab pot license is created and is required beginning January 1, 1994, to deliver coastal Dungeness crab taken in offshore waters. The cost is \$200 per year for a resident of Washington, and \$400 per year for a nonresident. An annual surcharge of \$125.00 is charged through June 30, 1999. The license shall be issued only to vessels that:

- (1) Held one of the following licenses in at least two seasons between December 1, 1988, and September 15, 1991, and every year between 1990 and 1993: crab pots licenses (Puget Sound or other than Puget

Sound), issued under RCW 75.28.130; delivery permit or delivery license, issued under RCW 75.28.125; salmon troll, issued under RCW 75.28.110; salmon delivery permit or salmon delivery license, issued under RCW 75.28.113; or trawl (Puget Sound or other than Puget Sound), issued under RCW 75.28.140; and

- (2) Made at least eight crab landings per season totalling at least 5,000 pounds of crab taken in coastal and offshore waters.

An applicant who meets all of the above criteria except the requirement to hold a qualifying license in all years between 1990 and 1993 shall be issued a coastal crab pot license if:

- (1) The owner can prove that the owner was in the process on September 15, 1991, of constructing a vessel for the purpose of coastal crab fishing. A coastal crab pot license issued to such a vessel is not renewable after December 31, 1994, unless the vessel lands 5,000 pounds of coastal crab into a Washington State port before December 31, 1994; or
- (2) The applicant's vessel is a replacement for a vessel that is otherwise eligible for a coastal crab pot license, in which case the landing and licensing history will follow the replacement vessel, and only the replacement vessel will be eligible for a coastal crab pot license.

After December 31, 1994, a coastal crab pot license may only be issued to a vessel that held the license in 1994, and each year thereafter. If the license is transferred to another vessel, the license history shall also be so transferred. Where the failure to hold a license the previous year was the result of license suspension, the vessel may qualify by establishing that the vessel held a coastal crab pot license in the last year in which the license was not suspended.

Effective only upon reciprocal legislation being enacted in Oregon and California, it is unlawful for vessels registered in Washington to take coastal crab in state waters or within the waters of the federal Exclusive Economic Zone contiguous to state waters without the licenses required to take or land coastal crab in Washington.

Provision for Additional Vessels to Enter Coastal Crab Fishery

If less than 125 vessels are eligible for coastal crab pot licenses, the director of the Department of Fisheries shall accept applications for new licenses up to 125 vessels. The director shall determine by random selection the successful applicants for the additional licenses. The director shall adopt rules governing the notification, application, selection and issuance procedures for new coastal crab licenses, based on recommendations of an advisory board.

Transferability of Coastal Crab Pot Licenses

Coastal crab pot licenses are transferable, subject to the following provisions:

- (1) There is no restriction on the transfer of a license if the vessel holding the license is transferred together with the license to a new owner.
- (2) License transfers between vessels are restricted to one transfer in any two consecutive Washington State coastal crab seasons when transfer is between vessels of comparable or lesser hull length or to one transfer in any five consecutive Washington State coastal crab seasons to a vessel of greater hull length provided that the vessel to which the license is being transferred may not be greater than 10 feet in hull length than the vessel from which the license is transferred.
- (3) In the event of loss of a vessel, a vessel owner may transfer a license to a vessel of comparable hull length.
- (4) Upon request of a vessel owner made during a Washington State coastal crab season, the director of the Department of Fisheries may allow a temporary emergency transfer of a license to a leased or rented vessel, provided that the vessel to which the emergency transfer is made may not be greater than 10 feet in hull length than the vessel from which the license is transferred. An emergency temporary transfer is valid for the repair time of the vessel from which the transfer is made or for the end of the season in which the transfer is made, whichever occurs first. Upon repair of the vessel or end of the season, the vessel owner must transfer the license from the leased or rented vessel to the vessel from which the license was transferred or to a replacement vessel of comparable hull length to or lesser hull length than the original vessel.

Reciprocity with Oregon

If a reciprocal law is enacted in Oregon, then the following provision shall become effective. An Oregon resident who can show historical participation in the Washington State coastal crab fishery by having held a nonresident crab pots (other than Puget Sound) license issued under RCW 75.28.140 each year from 1990 through 1993, and who has delivered a minimum of 5,000 pounds of crab into Oregon during any two seasons between December 1, 1988, and September 15, 1991, shall be issued a nonresident coastal crab pot license valid for fishing in Washington State waters north from the Oregon/Washington boundary to United States latitude 46 degrees 30 minutes north.

Advisory Review Board to Review Unsuccessful License Applicants

The director of the Department of Fisheries is directed to appoint a three-member advisory review board to hear cases involving coastal crab pot licenses and to recommend reduction of landing requirements if based on extenuating circumstances. Special consideration shall be given to individuals who can provide evidence of lack of access to capital based on past discrimination due to race, creed, color, sex, national origin, or disability. Members of the advisory board shall be from the commercial coastal crab industry. The director is authorized to reduce the landing requirements for a coastal crab pot license upon the recommendation of the board.

Gear Reduction Report

The crab industry shall prepare a gear reduction plan to stabilize the coastal crab industry in Washington, and present it to the Department of Fisheries by November 31, 1995. The department shall evaluate the plan and submit it to the Legislature by December 31, 1995.

Fiscal Note: Requested February 25, 1993.

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

Testimony For: (Fisheries & Wildlife) (on original bill) Overcapitalization in the West Coast Dungeness crab fishery has been a recognized problem since 1976, yet efforts to manage the fishery beyond Puget Sound have failed because they have not been coordinated among the coastal states. HB 1471 is part of a coordinated series of bills in California, Oregon and Washington legislatures this year. HB 1471 has wide industry support, and is the result of years of planning and research. Technical problems in the bill can be worked out in cooperation with the Department of

Fisheries. The state has a legitimate interest in protecting the resource from overharvesting, and in promoting an efficient and orderly fishery.

(Appropriations) This bill has been worked cooperatively with industry representatives, the Department of Fisheries and the other coastal states. Previous studies have pointed to problems with overcapitalization in the crab fishery. It is necessary to limit the crab fishery to prevent overcapitalization of the resource. A fisher must land 60,000 pounds of crab to make an adequate living.

Testimony Against: (Fisheries & Wildlife) (on original bill) The bill restricts the fishery too far, excluding up to two-thirds of current fishers, many of whom depend on crab fishing for livelihood. The 5,000 pound landing requirement is too high for beginning fishers; it can take years to acquire the amount of equipment necessary to catch that amount of crab in a season. Limiting the number of vessels in the fishery will not ensure protection of the resource, unless a gear limit is also provided for. The bill makes no provision for difficulties in acquiring startup capital encountered by persons of protected minority status. (The substitute bill addresses the last two concerns).

(Appropriations) None.

Witnesses: (Fisheries & Wildlife) (on original bill) Ed Owens, Western Fishboat Owners Association, Willapa Bay Gillnetters Association, Washington Dungeness Crab Fishermen's Association, Columbia River Crab Fishermen's Association, Washington Trollers Association, Fish Marketers Association, and Willapa Bay/Grays Harbor Oyster Growers (pro); Mary Lou Mills, Department of Fisheries (supports concept but has concerns about technical problems, and wants to wait for the results of a crab study that is already underway); Ernie Summers, Washington Dungeness Crab Fishermens Association (pro); Dick Sheldon, Columbia River Crab Fishermen's Association (pro); and Brynn Martin, Archie Jorgensen and Erwin Aanderud, crab fishers (con).

(Appropriations) Mary Lou Mills, Department of Fisheries; Ed Owens, React Consulting Group; and Dick Sheldon, Columbia River Crab Fisherman's Association.