

# HOUSE BILL REPORT

## 2ESHB 1471

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As Passed Legislature

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

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

**Sponsors:** House Committee on Appropriations (originally sponsored by Representatives King, Basich, Orr, Fuhrman, Brumsickle, Foreman and G. Cole).

**Brief History:**

Reported by House Committee on:  
Fisheries & Wildlife, February 1, 1994, DPA;  
Appropriations, February 5, 1994, DPA(FW/APP)s;  
Passed House, February 9, 1994, 93-2;  
Amended by Senate;  
Conference Committee Report adopted;  
Passed Legislature, March 9, 1994, 93-2.

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### HOUSE COMMITTEE ON FISHERIES & WILDLIFE

**Majority Report:** Do pass as amended. Signed by 8 members: Representatives King, Chair; Orr, Vice Chair; Sehlin, Assistant Ranking Minority Member; Basich; Chappell; Foreman; Quall and Scott.

**Minority Report:** Do not pass. Signed by 1 member: Representative Fuhrman, Ranking Minority Member.

**Staff:** Keitlyn Watson (786-7310).

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### HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** Do pass as amended by Committee on Fisheries & Wildlife as such amendment is amended by Committee on Appropriations. Signed by 22 members: Representatives Sommers, Chair; Valle, Vice Chair; Silver, Ranking Minority Member; Carlson, Assistant Ranking Minority Member; Appelwick; Ballasiotes; Basich; Cooke; Dorn; Dunshee; G. Fisher; Foreman; Jacobsen; Lemmon; H. Myers; Peery; Rust; Sehlin; Sheahan; Wang; Wineberry and Wolfe.

**Minority Report:** Do not pass. Signed by 3 members:  
Representatives Linville; Stevens and Talcott.

**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 nonsalmon delivery license is required of persons 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, in response to concerns about overcapitalization in the coastal crab fishery, directed WDF to participate in a coast-wide study of the coastal 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. This study, including recommendations, was presented to the Legislature in October 1993.

**Summary of Bill:**

Qualification for Dungeness-Crab Coastal Fishing Licenses

A Dungeness crab coastal fishery license and a Dungeness crab coastal class B fishery license are created, replacing the existing crab pot license. Beginning January 1, 1995, such licenses are required to fish for Dungeness crab in the state's coastal waters. Holders of such licenses may also land crab in Washington.

In order to qualify for a transferable Dungeness crab coastal fishery license, a person must have designated on the qualifying license, after December 31, 1993, a vessel that meets the following criteria:

- (1) made a minimum of eight crab landings totalling 5,000 pounds per season in two of four qualifying seasons and held (or the person held, if after December 31, 1993) one of the qualifying licenses each year beginning 1990 through 1994; or
- (2) Made a minimum of four landings totalling 2,000 pounds of coastal crab between December 1, 1990 and March 20, 1992, and made eight crab landings totalling 5,000 pounds each season between December 1, 1991 and September 15, 1994.

A Dungeness crab coastal class B fishery license is non-transferable and ceases to exist after December 31, 1999. In order to qualify for this license, a person must have designated, after December 31, 1993, a vessel on the qualifying license that meets the following criteria:

- (1) made a minimum of four landings totalling 2,000 pounds of coastal crab during at least one qualifying season; and
- (2) held one of the qualifying licenses each calendar year since the qualifying season through 1994.

The continuing license provisions of RCW 34.05.422(3) do not apply to class B licenses.

The four qualifying seasons are each season between December 1, 1988 and September 15, 1992. The qualifying licenses are: crab pot-non Puget Sound, nonsalmon delivery, salmon troll, food fish trawl and shrimp trawl, or their equivalents.

#### Future Issuance of Licenses

After December 31, 1995, a Dungeness crab coastal fishery license may only be issued to a person who has held the license continuously since issuance, unless the license was suspended.

#### Qualification for Landing Dungeness Crab in Washington

A holder of a Dungeness crab coastal or Dungeness crab coastal class B fishery license may land Dungeness crab in Washington.

A person who does not hold a Dungeness crab coastal fishery license may land crab in Washington between December 1 and February 15 if:

- (1) The director of DFW determines that such landings are in the best interest of the coastal crab processing industry;
- (2) Three Dungeness crab processors have requested that such landings be allowed;
- (3) The person obtains a Dungeness crab offshore delivery license;
- (4) The person is commercially licensed to fish for crab by the states of Oregon and/or California;
- (5) The crab is caught in offshore waters;
- (6) Each decision to allow such landing is made on a case-by-case basis, to improve the economic stability of the commercial crab fishery.

A person who does not hold a Dungeness crab coastal fishery license may land crab in Washington between February 15 and December 15 if:

- (1) The person is commercially licensed to fish for crab by the states of Oregon and/or California;
- (2) The person obtains a Dungeness crab offshore delivery license; and
- (3) The crab is caught in offshore waters.

A Dungeness crab offshore delivery license fee is \$250.00. Fees are deposited in the Coastal Crab Account.

#### Gear

Gear used to fish for Dungeness crab in Washington waters or to land crab in Washington must consist of one buoy attached to each crab pot. Each crab pot must be fished individually.

#### Reciprocity with Oregon

If a reciprocal law is enacted in Oregon, an Oregon resident is eligible for a Dungeness crab coastal fishery license valid for fishing in Washington state waters north from the Oregon-Washington boundary to United States latitude 46 degrees 30 minutes north, if that person meets the following criteria:

- (1) held a nonresident non-Puget Sound crab pot license each year from 1990 through 1994; and
- (2) delivered a minimum of eight landings totalling 5,000 pounds of crab into Oregon during any two of the four qualifying seasons.

#### Vessel Designations and Substitutions

Limitations on vessel designations and substitutions for Dungeness crab coastal and Dungeness crab coastal class B fishery licenses are as follows:

- (1) No license holder may designate a vessel exceeding 99 feet in hull length;
- (2) A license holder may only designate a different vessel on the license once every two consecutive crab seasons if vessels are of comparable hull length;
- (3) A license holder may only designate a different vessel on the license once every five consecutive crab seasons if the vessel proposed to be designated exceeds the length of the currently designated vessel by up to 10 feet;
- (4) A license holder may designate a different vessel outside of the time frequency limits in an emergency situation if an emergency situation exists.

#### Alternate Operators

Alternate operators are not permitted on Dungeness crab coastal class B fishery licenses.

#### Appeals Surcharge

A surcharge of \$50.00 is collected with each Dungeness crab coastal fishery license until June 30, 2000 and with each Dungeness crab coastal class B fishery license until December 31, 1997. The funds are placed into a dedicated, non-appropriated account to fund processing of appeals related to coastal crab licenses.

#### Transfer Fee

20 percent of the proceeds of the sale of transferable Dungeness crab-coastal fishery licenses are to be deposited in the Coastal Crab Account.

#### License Buyback Program

A surcharge of \$250.00 shall be collected with each Dungeness crab-coastal and Dungeness crab-coastal class B fishery license issued in 1995 and 1996. The revenues shall be placed in the Coastal Crab Account, and shall be used to purchase Dungeness crab-coastal class B fishery licenses from willing sellers. The price for a license purchased in 1995 shall not exceed \$5,000, and the price of a license purchased in 1996 shall not exceed \$3,500.

### Coastal Crab Account

The non-appropriated coastal crab account is created in the custody of the state treasurer. Expenditures from the account through 1996 are for class B license purchases by the DFW. Expenditures after 1996 are for coastal crab resource management by the DFW.

### Reciprocity in the Exclusive Economic Zone

If reciprocal legislation is enacted in Oregon and California, it is unlawful to take Dungeness crab in the waters of the exclusive economic zone west of the states of Oregon or California and to land crab taken in those waters unless the licensee also holds the licenses required by Oregon or California to land crab in those states.

### Adding New Licensees to the Fishery

If less than 175 persons are eligible for Dungeness crab coastal fishery licenses, the director of the Department of Fish and Wildlife (DFW) may accept applications for new licenses and maintain the number of licenses at a maximum of 175.

### Advisory Review Board

The director of the DFW is required to appoint a three member advisory review board to hear cases involving the Dungeness crab coastal fishery licenses. The director is authorized to reduce the landing requirements for these licenses if recommended by the board, based on extenuating circumstances. Extenuating circumstances may include situations in which a person had a vessel under construction such that qualifying landings could not be made.

### Gear Reduction Plan

The DFW is directed to prepare a resource plan to achieve long term stability of the coastal Dungeness crab resource. The plan is to be submitted to the appropriate committees of the Legislature by December 1, 1995.

**Fiscal Note:** Available on 2ESHB 1471. Requested March 10, 1994 on Conference Committee bill.

**Effective Date:** January 1, 1995, except for section 8, which takes effect January 1, 1997 and section 20, which takes effect 90 days after adjournment of session in which bill is passed. Section 8 allows use of the Coastal Crab Account for crab management, and section 20 repeals the crab resource plan.

**Testimony For:** (Fisheries & Wildlife) Limited entry is needed now. Waiting to pass legislation will only worsen the overcapitalization problem. The influx of new vessels in the last two years is evidence of this. The price of crab is less in Washington than in any other state. The bill is responsible and allows for many of the fishers to exit the fishery gracefully. It is a far more generous bill than that which passed the House last session.

(Appropriations) Washington needs to take steps to avoid overcapitalization. The current system promotes economic chaos and unsafe fishing. This legislation allows those who have had active participation in the fishery to continue. This legislation was drafted after input from all affected parties and is a workable compromise.

**Testimony Against:** (Fisheries & Wildlife) The crab resource problem is not solved by this legislation. Overcapitalization simply means that there are more boats than some are comfortable with. The bill would be acceptable only with the following changes to the B license: expiration date after five years, incorporation of the first right of refusal and elimination of vessel substitution restrictions, implementation of a buyback program, and restoration of alternate operators. The bill eliminates vessels that fished in outside waters but did not land frequently enough in Washington. These vessels will be prevented from landing at all in Washington. Licenses to fish a public resource should not be transferable. The limited entry scheme should allow those that have historically been in the fishery to stay. Many will lose their livelihood if the bill passes.

(Appropriations) The assumptions in the bill about the level of the crab resource are unclear. There is no reliable evidence that an overharvesting problem exists. The legislation is unfair and will hurt crab processors.

**Witnesses:** (Fisheries & Wildlife) Dick Sheldon, Columbia River Crab Fishers Association (pro), Larry Thevik and Ernie Summers, Washington Dungeness Crab Fishers Association (pro), Lou Holcomb, Ron Bainter and Doug Cornman, Washington Coastal Crab Coalition (con); Pam Botnen (con, but supports construction clause); Chuck Williams, Pacific Processors Association (con); Whitey Forsman, Washington Crab Producers and Pacific Coast Seafood (con); Mike Blown, Washington Crab Producers (con); Dennis Sturgill, fisher (con); Kelly Brown, fisher (con); and Ed Owens, Coalition of Washington Ocean Fishermen (pro).

(Appropriations) Representative Dick King, prime sponsor (pro); Ed Manary, Department of Fisheries (pro); Ed Owens,

Coalition of Washington Ocean Fishermen (pro); Chuck Williams, Pacific Processors Association (con); Doug Marino (con); and Frank Dulsich, Pacific Processors Association (con).