

HOUSE BILL REPORT

ESHB 1471

As Reported By House Committee On:
Fisheries & Wildlife
Appropriations

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 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 1, 1994, DPA;
Appropriations, February 5, 1994, DPA(FW/APP)s.

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).

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 Amended Bill:

Qualification for Dungeness-Crab Coastal 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 and to deliver Dungeness crab harvested in coastal waters to a port in the state.

In order to qualify for a transferable Dungeness crab coastal fishery license, a person must have designated on the qualifying license, as of 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, 1997. In order to qualify for this license, a person must be, as of December 31, 1993, the registered owner of a vessel 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.

Qualification for Vessels Under Construction

A person who can prove that he or she designated, as of December 31, 1993, on the qualifying license, a vessel that was under construction on March 20, 1992 for the purpose of being employed in the coastal crab fishery, is eligible for a Dungeness crab coastal fishery license if the vessel landed 5,000 pounds of coastal crab into a Washington port before September 15, 1993 and 5,000 pounds of coastal crab in eight landings before September 15, 1994. If the vessel under construction is a replacement vessel for a lost vessel that, had it not been lost, would have allowed the person to be eligible for a Dungeness crab coastal fishery license, the registered owner is also eligible for a Dungeness crab coastal fishery license.

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.

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.

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 account to fund processing of appeals related to coastal crab licenses.

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 125 persons are eligible for Dungeness crab coastal fishery licenses, the director of the WDF may accept applications for new licenses and maintain the number of licenses at a maximum of 125.

Advisory Review Board

The director of the WDF 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.

Gear Reduction Plan

The industry is directed to prepare a gear-reduction plan to stabilize the coastal crab industry and submit the plan to the WDF by June 30, 1996. The WDF must evaluate and submit the plan to the Legislature by December 31, 1996.

Amended Bill Compared to Engrossed Substitute Bill: The effective date of the new license is changed from January 1, 1994, to January 1, 1995.

An additional qualifying season is added to qualify for a Dungeness crab coastal fishery license. Additional opportunities to qualify are created, recognizing more recent participation in the fishery. A class B temporary license is also created, which expires December 31, 1997.

The date by which a vessel must have been in the process of construction to qualify for a license, is changed from September 15, 1991 to March 20, 1992.

A maximum hull length of 99 feet is established for vessels designated on a Dungeness crab coastal or coastal class B fishery license.

An eight landing per season criterion is added to the requirements for an Oregon resident to qualify for a Washington license based on Oregon landings. Such requirements remain contingent on reciprocal legislation being enacted.

Alternate operators are not permitted on class B licenses.

The temporary surcharge on licenses is reduced from \$125.00 to \$50.00 and is placed into a dedicated account for the purpose of processing appeals related to Dungeness crab coastal fishery licenses.

Fiscal Note: Requested January 28, 1994.

Effective Date of Amended Bill: January 1, 1995, except for section 15, which takes effect ninety days after adjournment of session in which bill is passed.

Testimony For: 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.

Testimony Against: 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.

Witnesses: 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).

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).

**Summary of Recommendation of Committee on Appropriations
Compared to Recommendation of Committee on Fisheries &**

Wildlife: The Dungeness crab appeals account is made a non-appropriated account.

Fiscal Note: Requested February 3, 1994.

Effective Date: January 1, 1995, except for section 15, which takes effect ninety days after adjournment of session in which bill is passed.

Testimony For: 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: 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: 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).