

HOUSE BILL REPORT

HB 1471

As Reported By House Committee On:
Fisheries & Wildlife
Appropriations

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

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

Sponsors: 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).

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).

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 Substitute 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. 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.

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. "Extenuating circumstances" shall include a person's economic position having prevented acquisition of capital needed to meet the landing requirements to demonstrate historic and continuous participation in the coastal crab fishery. 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 Department of Fisheries shall prepare a gear reduction plan to stabilize the coastal crab industry in Washington. The department shall submit the plan to the Legislature by December 31, 1994.

Substitute Bill Compared to Original Bill: The limited entry licensing mechanism is changed from an endorsement to a separate coastal crab pot license.

A license fee is added, which is \$200 for residents and \$400 for non-residents.

The effective date of the license requirement for Dungeness crab landing is changed from December 1, 1993, to January 1, 1994.

Evidence of historic participation in the fishery is expanded to include possession of any of several licenses during a specified time period, in addition to the crab pot or shellfish delivery permit required in the original bill. In the original bill, these licenses indicating historic participation must be held through December 1, 1993. In the substitute bill, these licenses must be held through December 31, 1993.

Advisory board approval of the determination that a vessel, for the purpose of obtaining a coastal crab license, was under construction or was a replacement vessel, is removed from the substitute bill.

A provision is added to the substitute bill that requires that in order to qualify for a coastal crab license in the future, the applicant must have held such a license in 1994, and every year thereafter. License suspensions prior to the year of application would not disqualify a vessel provided that a valid license was held prior to the suspension.

The one year limit on appeals of license denials is removed.

The authority of the director of the Department of Fisheries to waive a landing requirement for coastal crab is removed. The director may only reduce a landing requirement.

Two license transfer provisions are changed:

- (1) Under the original bill, a transfer of a license between vessels in which the vessel to which the license is being transferred is greater in size than the vessel from which the license is being transferred could occur if the transferee vessel is new. The substitute does not require that the vessel be new. Both bills require that the transferee vessel not exceed the transferor vessel by more than 10 feet in length.
- (2) For an emergency transfer, the substitute bill removes the 60-day limit and, once the emergency is over, the license can return to a replacement vessel or to the original vessel. The original bill only allows the license to be transferred back to the original vessel.

For Oregon vessels to qualify for a nonresident coastal crab pot license, the original bill requires these vessels to have held a Washington other than Puget Sound commercial crab pot license and caught crab in Washington waters during two seasons between December 1, 1988, and September 15, 1991, if the vessels fished from Oregon Columbia River ports between December 1, 1988, and December 1, 1993. The substitute bill changes these requirements to having held a Washington commercial other than Puget Sound crab pot license each year between 1990 and 1993, and landing at least 5,000 pounds of crab in Oregon in any two seasons between December 1, 1988, and December 15, 1991.

A provision is added to the substitute bill to require the director of the Department of Fisheries to issue new licenses to applicants if the total number of licensed vessels in the coastal crab fishery falls below 125, and to keep that number of vessels at 125.

A provision is added that requires the Department of Fisheries to prepare a gear reduction plan for the coastal crab industry, and to submit the plan to the Legislature by December 31, 1994.

The definition of "extenuating circumstances" must include a license applicant's economic position having prevented acquisition of capital needed to meet the landing requirements. Special consideration is required to be given to individuals who can provide evidence that their lack of

access to capital is based on past discrimination due to race, creed, color, sex, national origin or disability.

Fiscal Note: Requested February 25, 1993.

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

Testimony For: (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.

Testimony Against: (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).

Witnesses: (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).

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).

Summary of Recommendation of Committee on Appropriations Compared to Recommendation of Committee on Fisheries & Wildlife: A surcharge fee of \$125 is added to the coastal crab licenses. The surcharge is effective until June 30, 1999. A requirement for a gear reduction plan from the Department of Fisheries for submittal to the Legislature is deleted. Instead, the same plan is required of the industry for submittal to the Department of Fisheries by November 1995. The department is required to submit the report to the Legislature by December 1995.

Fiscal Note: Requested on substitute bill February 25, 1993.

Appropriation: None.

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

Testimony For: 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: None.

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