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SECOND SUBSTITUTE SENATE BILL 5658

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State of Washington

56th Legislature

1999 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Spanel, Hargrove and Snyder)

Read first time 03/08/1999.

1 AN ACT Relating to sea urchin and sea cucumber dive fishery  
2 licenses and revenues; amending RCW 75.30.210, 75.30.250, 82.27.020,  
3 and 82.27.070; and providing an effective date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 75.30.210 and 1998 c 190 s 104 are each amended to  
6 read as follows:

7 (1) A ~~((person shall not commercially take any species of sea~~  
8 ~~urchin using shellfish diver gear without first obtaining a))~~ sea  
9 urchin dive fishery license is required to take sea urchins for  
10 commercial purposes. A sea urchin dive fishery license authorizes the  
11 use of only one diver in the water at any time during sea urchin  
12 harvest operations. If the same vessel has been designated on two sea  
13 urchin dive fishery licenses, two divers may be in the water. A  
14 natural person may not hold more than two sea urchin dive fishery  
15 licenses.

16 (2) Except as provided in subsection ~~((s (3) and))~~ (6) of this  
17 section, ~~((after December 31, 1991,))~~ the director shall issue no new  
18 sea urchin dive fishery licenses. ~~((Only a person who meets the~~  
19 ~~following qualifications may renew an existing license:~~

1       ~~(a) The person shall have held the sea urchin dive fishery license~~  
2 ~~sought to be renewed during the previous year or acquired the license~~  
3 ~~by transfer from someone who held it during the previous year; and~~

4       ~~(b) The person shall document, by valid shellfish receiving tickets~~  
5 ~~issued by the department, that twenty thousand pounds of sea urchins~~  
6 ~~were caught and sold under the license sought to be renewed during the~~  
7 ~~two year period ending March 31 of the most recent odd numbered year.)~~

8 For licenses issued for the year 2000 and thereafter, the director  
9 shall renew existing licenses only to a natural person who held the  
10 license at the end of the previous year. If a sea urchin dive fishery  
11 license is not held by a natural person as of December 31, 1999, it is  
12 not renewable. However, if the license is not held because of  
13 revocation or suspension of licensing privileges, the director shall  
14 renew the license in the name of a natural person at the end of the  
15 revocation or suspension if the license holder applies for renewal of  
16 the license before the end of the year in which the revocation or  
17 suspension ends.

18       (3) ~~Where ((the person))~~ a licensee failed to obtain the license  
19 during the previous year because of a license suspension or revocation  
20 by the department or the court, the ~~((person))~~ licensee may qualify for  
21 a license by establishing that the person held such a license during  
22 the last year in which the person was eligible.

23       ~~(4) ((The director may reduce or waive the poundage requirement of~~  
24 ~~subsection (2)(b) of this section upon the recommendation of a board of~~  
25 ~~review established under RCW 75.30.050. The board of review may~~  
26 ~~recommend a reduction or waiver of the poundage requirement in~~  
27 ~~individual cases if, in the board's judgment, extenuating circumstances~~  
28 ~~prevent achievement of the poundage requirement. The director shall~~  
29 ~~adopt rules governing the operation of the board of review and defining~~  
30 ~~"extenuating circumstances.")~~ Surcharges as provided for in this  
31 section shall be collected and deposited into the sea urchin dive  
32 fishery account hereby created in the custody of the state treasurer.  
33 Only the director or the director's designee may authorize expenditures  
34 from the account. The sea urchin dive fishery account is subject to  
35 allotment procedures under chapter 43.88 RCW, but no appropriation is  
36 required for expenditures. Expenditures from the account shall only be  
37 used to retire sea urchin licenses until the number of licenses is  
38 reduced to twenty-five, and thereafter shall only be used for sea  
39 urchin management and enforcement.

1       (a) A surcharge of one hundred dollars shall be charged with each  
2 sea urchin dive fishery license renewal for licenses issued in 2000  
3 through 2005.

4       (b) For licenses issued for the year 2000 and thereafter, a  
5 surcharge shall be charged on the sea urchin dive fishery license for  
6 designating an alternate operator. The surcharge shall be as follows:  
7 Five hundred dollars for the first year or each of the first two  
8 consecutive years after 1999 that any alternate operator is designated  
9 and two thousand five hundred dollars each year thereafter that any  
10 alternate operator is designated.

11       (5) Sea urchin dive fishery licenses are ((not)) transferable  
12 ((from one license holder to another, except from parent to child, or  
13 from spouse to spouse during marriage or as a result of marriage  
14 dissolution, or upon the death of the license holder)). After December  
15 31, 1999, there is a surcharge to transfer a sea urchin dive fishery  
16 license. The surcharge is five hundred dollars for the first transfer  
17 of a license valid for calendar year 2000, and two thousand five  
18 hundred dollars for any subsequent transfer, whether occurring in the  
19 year 2000 or thereafter. Notwithstanding this subsection, a one-time  
20 transfer exempt from surcharge applies for a transfer from the natural  
21 person licensed on January 1, 2000, to that person's spouse or child.

22       (6) If fewer than ((forty-five)) twenty-five natural persons are  
23 eligible for sea urchin dive fishery licenses, the director may accept  
24 applications for new licenses. ((The director shall determine by  
25 random selection the successful applicants for the additional licenses.  
26 The number of additional licenses issued shall be sufficient to  
27 maintain up to forty-five licenses in the sea urchin dive fishery. The  
28 director shall adopt rules governing the application, selection, and  
29 issuance procedure for new sea urchin dive fishery licenses, based upon  
30 recommendations of a board of review established under RCW 75.30.050.))  
31 The additional licenses may not cause more than twenty-five natural  
32 persons to be eligible for a sea urchin dive fishery license. New  
33 licenses issued under this section shall be distributed according to  
34 rules of the department that recover the value of such licensed  
35 privilege.

36       (7) For the purposes of this section, a natural person is defined  
37 as either of the following entities:

38       (a) A natural person; or

39       (b) A corporation that has all of the following characteristics:

- 1        (i) Only one shareholder;  
2        (ii) Only one director;  
3        (iii) All officer positions are filled by the same person;  
4        (iv) The shareholder, director, and person who fill the officer  
5 positions are the same person; and  
6        (v) The person who is the shareholder, director, and who fills the  
7 officer positions is either a natural person or a marital community  
8 composed of two natural persons.

9        **Sec. 2.** RCW 75.30.250 and 1998 c 190 s 105 are each amended to  
10 read as follows:

11        ~~(1) A ((person shall not commercially take while using shellfish~~  
12 ~~diver gear any species of sea cucumber without first obtaining a)) sea~~  
13 cucumber dive fishery license is required to take sea cucumbers for  
14 commercial purposes. A sea cucumber dive fishery license authorizes  
15 the use of only one diver in the water at any time during sea cucumber  
16 harvest operations. If the same vessel has been designated on two sea  
17 cucumber dive fishery licenses, two divers may be in the water. A  
18 natural person may not hold more than two sea cucumber dive fishery  
19 licenses.

20        (2) Except as provided in subsection (6) of this section, ~~((after~~  
21 ~~December 31, 1991,))~~ the director shall issue no new sea cucumber dive  
22 fishery licenses. ~~((Only a person who meets the following~~  
23 ~~qualifications may renew an existing license:~~

24        ~~(a) The person shall have held the sea cucumber dive fishery~~  
25 ~~license sought to be renewed during the previous two years or acquired~~  
26 ~~the license by transfer from someone who held it during the previous~~  
27 ~~year; and~~

28        ~~(b) The person shall establish, by means of dated shellfish~~  
29 ~~receiving documents issued by the department, that thirty landings of~~  
30 ~~sea cucumbers totaling at least ten thousand pounds were made under the~~  
31 ~~license during the previous two-year period ending December 31 of the~~  
32 ~~odd-numbered year.))~~ For licenses issued for the year 2000 and  
33 thereafter, the director shall renew existing licenses only to a  
34 natural person who held the license at the end of the previous year.  
35 If a sea cucumber dive fishery license is not held by a natural person  
36 as of December 31, 1999, it is not renewable. However, if the license  
37 is not held because of revocation or suspension of licensing  
38 privileges, the director shall renew the license in the name of a

1 natural person at the end of the revocation or suspension if the  
2 license holder applies for renewal of the license before the end of the  
3 year in which the revocation or suspension ends.

4 (3) Where (~~the person~~) a licensee failed to obtain the license  
5 during either of the previous two years because of a license suspension  
6 by the department or the court, the (~~person~~) licensee may qualify for  
7 a license by establishing that the person held such a license during  
8 the last year in which the person was eligible.

9 (4) (~~The director may reduce or waive any landing or poundage~~  
10 ~~requirement established under this section upon the recommendation of~~  
11 ~~a board of review established under RCW 75.30.050. The board of review~~  
12 ~~may recommend a reduction or waiver of any landing or poundage~~  
13 ~~requirement in individual cases if, in the board's judgment,~~  
14 ~~extenuating circumstances prevent achievement of the landing or~~  
15 ~~poundage requirement. The director shall adopt rules governing the~~  
16 ~~operation of the board of review and defining "extenuating~~  
17 ~~circumstances."~~) Surcharges as provided for in this section shall be  
18 collected and deposited into the sea cucumber dive fishery account  
19 hereby created in the custody of the state treasurer. Only the  
20 director or the director's designee may authorize expenditures from the  
21 account. The sea cucumber dive fishery account is subject to allotment  
22 procedures under chapter 43.88 RCW, but no appropriation is required  
23 for expenditures. Expenditures from the account shall only be used to  
24 retire sea cucumber licenses until the number of licenses is reduced to  
25 twenty-five, and thereafter shall only be used for sea cucumber  
26 management and enforcement.

27 (a) A surcharge of one hundred dollars shall be charged with each  
28 sea cucumber dive fishery license renewal for licenses issued in 2000  
29 through 2005.

30 (b) For licenses issued for the year 2000 and thereafter, a  
31 surcharge shall be charged on the sea cucumber dive fishery for  
32 designating an alternate operator. The surcharge shall be as follows:  
33 Five hundred dollars for the first year or each of the first two  
34 consecutive years after 1999 that any alternate operator is designated  
35 and two thousand five hundred dollars each year thereafter that any  
36 alternate operator is designated.

37 (5) Sea cucumber dive fishery licenses are (~~not~~) transferable  
38 (~~from one license holder to another except from parent to child, from~~  
39 spouse to spouse during marriage or as a result of marriage

1 ~~dissolution, or upon death of the license holder)). After December 31,~~  
2 ~~1999, there is a surcharge to transfer a sea cucumber dive fishery~~  
3 ~~license. The surcharge is five hundred dollars for the first transfer~~  
4 ~~of a license valid for calendar year 2000 and two thousand five hundred~~  
5 ~~dollars for any subsequent transfer whether occurring in the year 2000~~  
6 ~~or thereafter. Notwithstanding this subsection, a one-time transfer~~  
7 ~~exempt from surcharge applies for a transfer from the natural person~~  
8 ~~licensed on January 1, 2000, to that person's spouse or child.~~

9 (6) ~~If fewer than ((fifty)) twenty-five persons are eligible for~~  
10 ~~sea cucumber dive fishery licenses, the director may accept~~  
11 ~~applications for new licenses ((from those persons who can demonstrate~~  
12 ~~two years' experience in the Washington state sea cucumber dive~~  
13 ~~fishery. The director shall determine by random selection the~~  
14 ~~successful applicants for the additional licenses. The number of~~  
15 ~~additional licenses issued shall be sufficient to maintain up to fifty~~  
16 ~~licenses in the sea cucumber dive fishery. The director shall adopt~~  
17 ~~rules governing the application, selection, and issuance procedure for~~  
18 ~~new sea cucumber dive fishery licenses, based upon recommendations of~~  
19 ~~a board of review established under RCW 75.30.050)). The additional~~  
20 ~~licenses may not cause more than twenty-five natural persons to be~~  
21 ~~eligible for a sea cucumber dive fishery license. New licenses issued~~  
22 ~~under this section shall be distributed according to rules of the~~  
23 ~~department that recover the value of such licensed privilege.~~

24 (7) ~~For the purposes of this section, a natural person is defined~~  
25 ~~as either of the following entities:~~

26 ~~(a) A natural person; or~~

27 ~~(b) A corporation that has all of the following characteristics:~~

28 ~~(i) Only one shareholder;~~

29 ~~(ii) Only one director;~~

30 ~~(iii) All officer positions are filled by the same person;~~

31 ~~(iv) The shareholder, director, and person who fill the officer~~  
32 ~~positions are the same person; and~~

33 ~~(v) The person who is the shareholder, director, and who fills the~~  
34 ~~officer positions is either a natural person or a marital community~~  
35 ~~composed of two natural persons.~~

36 **Sec. 3.** ~~RCW 82.27.020 and 1993 sp.s. c 17 s 12 are each amended to~~  
37 ~~read as follows:~~

1 (1) In addition to all other taxes, licenses, or fees provided by  
2 law there is established an excise tax on the commercial possession of  
3 enhanced food fish as provided in this chapter. The tax is levied upon  
4 and shall be collected from the owner of the enhanced food fish whose  
5 possession constitutes the taxable event. The taxable event is the  
6 first possession in Washington by an owner. Processing and handling of  
7 enhanced food fish by a person who is not the owner is not a taxable  
8 event to the processor or handler.

9 (2) A person in possession of enhanced food fish and liable to this  
10 tax may deduct from the price paid to the person from which the  
11 enhanced food fish (except oysters) are purchased an amount equal to a  
12 tax at one-half the rate levied in this section upon these products.

13 (3) The measure of the tax is the value of the enhanced food fish  
14 at the point of landing.

15 (4) The tax shall be equal to the measure of the tax multiplied by  
16 the rates for enhanced food fish as follows:

17 (a) Chinook, coho, and chum salmon and anadromous game fish: Five  
18 and twenty-five one-hundredths percent(( $\frac{1}{20}$ ))*i*

19 (b) Pink and sockeye salmon: Three and fifteen one-hundredths  
20 percent(( $\frac{3}{20}$ ))*i*

21 (c) Other food fish and shellfish, except oysters, sea urchins, and  
22 sea cucumbers: Two and one-tenth percent(( $\frac{1}{10}$ ))*i*

23 (d) Oysters: Eight one-hundredths of one percent*i*

24 (e) Sea urchins: Four and six-tenths percent through December 31,  
25 2005, and two and one-tenth percent thereafter*i* and

26 (f) Sea cucumbers: Four and six-tenths percent through December  
27 31, 2005, and two and one-tenth percent thereafter.

28 (5) An additional tax is imposed equal to the rate specified in RCW  
29 82.02.030 multiplied by the tax payable under subsection (4) of this  
30 section.

31 **Sec. 4.** RCW 82.27.070 and 1988 c 36 s 61 are each amended to read  
32 as follows:

33 All taxes collected by the department of revenue under this chapter  
34 shall be deposited in the state general fund except for the excise tax  
35 on anadromous game fish, which shall be deposited in the wildlife fund,  
36 and, during the period January 1, 2000, to December 31, 2005, twenty-  
37 five forty-sixths of the revenues derived from the excise tax on sea  
38 urchins collected under RCW 82.27.020 shall be deposited into the sea

1 urchin dive fishery account created in RCW 75.30.210, and twenty-five  
2 forty-sixths of the revenues derived from the excise tax on sea  
3 cucumbers collected under RCW 82.27.020 shall be deposited into the sea  
4 cucumber dive fishery account created in RCW 75.30.250.

5 NEW SECTION. **Sec. 5.** Section 3 of this act takes effect January  
6 1, 2000.

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