

# HOUSE BILL REPORT

## ESHB 2323

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### As Amended by the Senate

**Title:** An act relating to commercial fishers.

**Brief Description:** Creating the direct retail license for commercial fishers.

**Sponsors:** By House Committee on Natural Resources (originally sponsored by Representatives Hatfield, Buck, Doumit and Linville).

**Brief History:**

**Committee Activity:**

Natural Resources: 1/23/02, 2/6/02 [DPS];

Appropriations: 2/9/02 [DPS(NR)].

**Floor Activity:**

Passed House: 2/16/02, 97-1.

Senate Amended.

Passed Senate: 3/7/02, 47-1.

### Brief Summary of Engrossed Substitute Bill

- Establishes a direct retail endorsement to a commercial fishing license that serves as a single license allowing a commercial fisher to sell his or her harvest at retail.
- Removes the requirement that a commercial fisher must have a wholesale license in order to sell his or her catch directly at retail.
- Prohibits local governments from requiring additional licenses or permits from the holder of a direct retail endorsement.

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### HOUSE COMMITTEE ON NATURAL RESOURCES

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Doumit, Chair; Rockefeller, Vice Chair; Sump, Ranking Minority Member; Buck, Eickmeyer, Ericksen, Jackley, McDermott, Orcutt, Pearson and Upthegrove.

**Staff:** Jason Callahan (786-7117).

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## HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** The substitute bill by Committee on Natural Resources be substituted therefor and the substitute bill do pass. Signed by 25 members: Representatives Sommers, Chair; Doumit, 1st Vice Chair; Fromhold, 2nd Vice Chair; Sehlin, Ranking Minority Member; Alexander, Boldt, Buck, Clements, Cody, Cox, Dunshee, Grant, Kagi, Kenney, Kessler, Linville, Lisk, Mastin, McIntire, Pearson, Pflug, Ruderman, Schual-Berke, Talcott and Tokuda.

**Staff:** Jeff Olsen (786-7157).

### **Background:**

Individuals possessing a Washington commercial fishing license are only allowed to sell their catch or harvest to a licensed wholesale fish dealer. Commercial fishers wishing to sell their catch to someone other than a licensed wholesale fish dealer must obtain a wholesale fish dealer's license from the Department of Fish and Wildlife (department).

A wholesale license is required for any business engaging in the commercial processing of food fish or shellfish; any business engaging in the buying, selling, or brokering of food fish or shellfish; any business commercially manufacturing byproducts of food fish or shellfish; and any commercial fisher selling his or her catch or harvest to someone other than a licensed wholesale dealer. Wholesale dealers are responsible for documenting the commercial harvest of food fish and shellfish.

The department is required by statute to charge \$250 for an annual wholesale fish dealers license, and to require that the applicant execute a surety bond for between \$2,000 and \$50,000. The bond must be executed in favor of the department, and is conditioned upon compliance with the rules of the department relating to accounting for the commercial harvest of food fish and shellfish.

In addition to the wholesale fish dealers license, any commercial fisher wishing to sell his or her catch directly to the retail market must also comply with all local health permitting and licensing requirements.

### **Summary of Engrossed Substitute Bill:**

The Department of Fish and Wildlife (department) is required to offer the direct retail endorsement. This endorsement serves as the single license necessary to permit the holder of a commercial fishing license to clean, dress, and sell his or her fin fish or crab catch or harvest directly to the retail market. The direct retail license is offered as an addition to an underlying commercial fishing license, but it may not be transferred or assigned with the underlying license. Only one direct retail endorsement is necessary even for fishers owning multiple commercial fishing licenses. The holder of the

endorsement is responsible for documenting the commercial harvest of fin fish and crab pursuant to wholesale fish dealer rules. The department may charge a reasonable fee to administer the program.

Prior to issuing a direct retail endorsement, the department must receive from the applicant a letter from a local health department that the individual is in compliance with the health standards of that community, that the individual is in compliance with any standards developed by the Board of Health, and that the individual is in possession of a valid food handlers card. Counties and cities are prohibited from passing ordinances that require licenses or permits in addition to the direct retail endorsement for the retail sale of fin fish and crab by licensed commercial fishers. However, the holder of a direct retail endorsement must notify a county prior to selling within its borders and open his or her facilities for inspection in that county. If the county finds a health violation it may assess a fine and suspend the endorsement for up to seven days.

The direct retail endorsement and underlying licenses are conditioned upon compliance with the requirements for the accounting of fin fish and crab, the payment of any fines, and compliance with the standards promulgated by the Board of Health. If the owner of a direct retail endorsement violates these rules, the department or a county prosecuting attorney may bring an action in superior court to seek suspension of the direct retail endorsement for up to five years. Suspension may not be sought for a direct retail license holder who executes a surety bond in accordance with the requirements for a wholesale fish dealer. The privileges granted by the direct retail endorsement can be suspended for up to 120 days during prosecution unless the holder executes a surety bond.

Fish and Wildlife Code violations are updated to reflect the creation of the direct retail license.

**EFFECT OF SENATE AMENDMENT(S):**

Moves effective date from January 1, 2003 to July 1, 2002. Limits direct retail endorsement to salmon and crab. Requires the direct retail endorsement applicant to show proof that any health inspection fees were paid to his or her home county.

**Appropriation:** None.

**Fiscal Note:** Preliminary fiscal note available.

**Effective Date:** The bill takes effect on January 1, 2003.

**Testimony For:** (Natural Resources) Currently it is very difficult and expensive for a fisher to line up the necessary permits for selling his or her catch to someone other than a

licensed wholesaler. This is a problem because the difference in price paid by the wholesaler is significantly lower than the price available on the retail market. Many fishers choose not to fish if it means selling for the wholesale price. This bill would allow them easier access to the retail market, higher prices and new niche markets.

Fishers selling at retail is a benefit to tourism in coastal areas. Tourists will spread the word that fresh seafood is available in Washington at low prices directly from the fishers.

Dealing with various county licenses is a costly and difficult endeavor. Many county offices are not open at times that a professional fisher can appear, and inspections are not available on weekends, when most sales take place.

**Testimony For:** (Appropriations) None.

**Testimony Against:** (Natural Resources) The Department of Fish and Wildlife must randomly sample all salmon caught, which is currently accomplished at wholesale buying centers. There is a concern that this may be hard to accomplish if fishers are not selling at centralized locations.

The local health districts must be able to take quick action to address a contaminated food issue, and need revenue to implement the state food safety rules.

**Testimony Against:** (Appropriations) None.

**Testified:** (Natural Resources) (In support) Representative Hatfield, prime sponsor; Kent and Irene Martin, commercial fishers; Robert Briscoe, Puget Sound Crab Association; Steve Clark, Northwest Gillnetters Association; and Marty Kuller, commercial fisherman.

(In support, with concerns) Morris Barker, Department of Fish and Wildlife.

(With concerns) Jennifer Tebaldi, Department of Health; and Leigh Espy, Department of Natural Resources.

(In support, substitute bill) Ed Owens, Coalition of Coastal Fisheries.

**Testified:** (Appropriations) None.