
**Fisheries, Ecology & Parks
Committee**

HB 1057

Brief Description: Creating the license suspension review committee.

Sponsors: Representatives Hatfield, Buck, Blake and Kessler.

Brief Summary of Bill

- Amends the existing commercial fishing license suspension provisions by providing the director of the Department of Fish and Wildlife with discretionary authority to suspend the license of an individual who is convicted of two qualifying fishing related gross misdemeanors or felonies within a three-year period.
- Defines the minimum standards for a qualifying commercial fishing violation.
- Establishes the License Suspension Review Committee to hear license suspension appeals from commercial fishers.

Hearing Date: 1/23/03

Staff: Jason Callahan (786-7117).

Background:

A commercial fishing violation is generally punishable as either a misdemeanor, gross misdemeanor, or a felony (chapter 77.15 RCW). Misdemeanor violations are punishable by up to 90 days in jail and a fine of up to \$1,000 (RCW 9.92.030). Gross misdemeanors are punishable by up to one year in jail and a fine of up to \$5,000 dollars (RCW 9.92.020), and felonies can result in a prison sentence of up to 10 years and a fine of up to \$20,000 (RCW 9.92.010).

In addition to criminal sanctions, the director of the Department of Fish and Wildlife (department) must suspend all commercial fishing privileges for a person who is convicted of two gross misdemeanors or felonies involving commercial fishing within a five year period (RCW 77.15.700). Suspended licenses may not be transferred or used by an alternate operator. The department may also issue a life suspension if it finds willful or wanton disregard for the conservation of fish or wildlife (RCW 77.15.700).

Summary of Bill:

The director of the department has discretionary authority to suspend a person's privileges to participate in a particular commercial fishery if that person has been convicted of two or more "qualifying commercial violations" within a three-year period. Suspensions may not exceed one year and a suspended license may not be transferred or used by an alternate operator. Any suspension is in addition to the criminal penalties attached to the underlying criminal infraction.

A commercial fishing violation can be judged as a "qualifying commercial violation" a number of ways; however, all qualifying commercial violations must first be either a gross misdemeanor or a felony. To qualify, certain violations must involve a specific minimum amount of harvested product. For shellfish harvesters, including crab, all qualifying commercial violations must involve at least 50 individual unlawfully harvested shellfish, and those unlawful shellfish must make up at least six percent of the total harvest.

Violations of regulations for fish, including salmon and other finfish, are also dependant on the amount harvested when calculating if a violation is a qualifying violation. If greater than 50 fish are being harvested, more than four percent of the harvest must be unlawful for the violation to qualify. If a harvest is comprised of less than 50 individual fish, other than groundfish, the value of the unlawfully harvested individual fish must total greater than \$250. Harvests that have less than 50 individual groundfish must contain enough unlawfully harvested groundfish to be valued at more than \$175 before the violation is considered a qualifying commercial violation.

Some violations are considered to be qualifying commercial violations regardless of the amount of product involved. These violations are: fishing without a license, chartering without a license, using unlawful gear or an unlawful method, using a non-designated vessel, fishing at an improper time, participating in a treaty fishery, using illegal nets, and using a commercial vessel for recreational pursuits.

In addition to fishers who have been convicted of two qualifying commercial violations within three years, the director of the department can recommend license suspension if one violation is judged by the director to be of a severe magnitude. The director can also recommend license suspension for an individual that has been convicted of a shellfish violation involving 500 or more unlawfully harvested shellfish valued at greater than \$2,500, if the quantity of unlawful shellfish totals more than twenty percent of the harvest.

Any commercial fisher that is issued a suspension order from the director of the department may appeal that suspension to the License Suspension Review Committee (committee). The committee is appointed by the Fish and Wildlife Commission (commission), and is comprised of two department employees and three commercial fishers from different counties. In addition, the commission can name up to four alternative members that may vote when one of the regular members is unavailable.

The committee must hear and decide on all appeals within three months, during which time the members can collect information and hear testimony regarding any extenuating circumstances surrounding a violation. The majority decision of the committee is final,

except for judicial review, and it may waive, decrease, or increase the suspension length set by the director of the department. However, no suspensions may be issued for greater than one year.

Fishers that receive a suspension notice from the director of the department have 31 days to file an appeal with the committee. After 31 days the right to an appeal is considered waived and the suspension period commences.

Appropriation: None.

Fiscal Note: Requested on January 14, 2003.

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