
SUBSTITUTE HOUSE BILL 2593

State of Washington

61st Legislature

2010 Regular Session

By House Agriculture & Natural Resources (originally sponsored by Representatives Rolfes, Morris, Upthegrove, Williams, Lias, White, and Nelson)

READ FIRST TIME 02/03/10.

1 AN ACT Relating to creating tools to enhance the department of fish
2 and wildlife's ability to manage shellfish resources; amending RCW
3 77.70.500, 77.15.520, 77.15.380, 63.21.080, 77.12.865, 77.12.870,
4 77.15.750, 77.55.041, and 77.32.430; adding new sections to chapter
5 77.15 RCW; prescribing penalties; and providing an expiration date.

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

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 77.15 RCW
8 to read as follows:

9 (1) A person is guilty of the unlawful use of shellfish gear for
10 commercial purposes if the person:

11 (a) Takes, fishes for, or possesses crab, shrimp, or crawfish for
12 commercial purposes with shellfish gear that is constructed or altered
13 in a manner that violates any rule of the commission relating to
14 required gear design specifications; or

15 (b) Is found in possession of, upon any vessel located on the
16 waters of the state, shellfish gear that is constructed or altered in
17 a manner that violates any rule of the commission relating to required
18 gear design specifications, unless a person holds a valid crab pot

1 removal permit under RCW 77.70.500 and is in the process of
2 transporting removed crab pots as part of the Dungeness crab pot
3 removal program.

4 (2) The unlawful use of shellfish gear for commercial purposes is
5 a gross misdemeanor.

6 NEW SECTION. **Sec. 2.** A new section is added to chapter 77.15 RCW
7 to read as follows:

8 (1) A person is guilty of the unlawful use of shellfish gear for
9 personal use purposes if the person:

10 (a) Takes, fishes for, or possesses crab, shrimp, or crawfish for
11 personal use purposes with shellfish gear that is constructed or
12 altered in a manner that violates any rule of the commission relating
13 to required gear design specifications; or

14 (b) Is found in possession of, upon any vessel located on the
15 waters of the state, shellfish gear that is constructed or altered in
16 a manner that violates any rule of the commission relating to required
17 gear design specifications, unless a person holds a valid crab pot
18 removal permit under RCW 77.70.500 and is in the process of
19 transporting removed crab pots as part of the Dungeness crab pot
20 removal program.

21 (2) The unlawful use of shellfish gear for personal use purposes is
22 a misdemeanor.

23 **Sec. 3.** RCW 77.70.500 and 2009 c 355 s 1 are each amended to read
24 as follows:

25 (1)(a) As part of a coastal commercial Dungeness crab pot removal
26 program, the department shall issue a crab pot removal permit that
27 allows the participants in the Dungeness crab-coastal fishery created
28 in RCW 77.70.280 to remove crab pots belonging to state commercial
29 licensed crab fisheries from coastal marine waters after the close of
30 the primary commercial Dungeness crab-coastal harvest season,
31 regardless of whether the crab pot was originally set by the
32 participant or not.

33 (b) Beginning fifteen days after the close of the primary
34 commercial Dungeness crab-coastal harvest season, any individual with
35 a current commercial Dungeness crab-coastal license and a valid crab
36 pot removal permit issued by the department may remove a crab pot or

1 crab pots used to harvest Dungeness crabs remaining in coastal marine
2 waters after the close of the primary commercial Dungeness crab-coastal
3 harvest season.

4 (c) In cooperation with individuals with a current commercial
5 Dungeness crab-coastal license, the department may expand the coastal
6 commercial Dungeness crab pot removal program to those areas closed to
7 commercial Dungeness crab harvest prior to the end of the primary
8 season.

9 (d) Nothing in this section prohibits the department from exempting
10 certain crab pots from the coastal commercial Dungeness crab pot
11 removal program or from restricting crab pot removal activities to
12 specific geographic areas.

13 ~~((e) The department may adopt rules to implement this subsection~~
14 ~~(1).))~~

15 (2)(a) The department may expand the crab pot removal program to
16 allow for the removal of shellfish pots belonging to state commercial
17 or recreational licensed shellfish fisheries from Puget Sound waters
18 during shellfish harvest closures, regardless of whether the shellfish
19 pot was originally set by the permittee or not.

20 (b) If the department expands the program to Puget Sound waters,
21 the department shall limit the program as necessary to streamline
22 implementation, minimize the oversight burden on fish and wildlife
23 enforcement officers, minimize interference with lawful fisheries and
24 other user groups, minimize administrative overhead cost, and avoid the
25 collection of shellfish pots that are not abandoned. The program may
26 be limited as deemed appropriate by the department, including
27 limitations on:

- 28 (i) The number of participants;
- 29 (ii) The eligible geographic areas in Puget Sound where shellfish
30 pots may be recovered;
- 31 (iii) The types of shellfish pots that may be recovered;
- 32 (iv) The maximum or minimum depth where a shellfish pot must be
33 located to be eligible for recovery; and
- 34 (v) The ports through which the vessels collecting the abandoned
35 shellfish pots may operate.

36 (3) The department may adopt rules to implement subsections (1) and
37 (2) of this section.

1 (4)(a) The following are exempt from complying with the lost and
2 found property provisions in chapter 63.21 RCW:

3 (i) An individual participating in permitted crab pot removal
4 activities in coastal marine waters who has a valid crab pot removal
5 permit, and who adheres to the provisions of the permit as they relate
6 to crab pot removal(~~(, is exempt from complying with the lost and found~~
7 property provisions in chapter 63.21 RCW.)); and

8 (ii) An individual participating in permitted shellfish pot removal
9 activities in Puget Sound waters who has a valid shellfish pot removal
10 permit and who adheres to the provisions of the permit as they relate
11 to shellfish pot removal.

12 (b) The individual who removes (~~the crab~~) a shellfish pot under
13 a valid crab pot removal permit or a valid shellfish pot removal permit
14 takes the property free and clear of all claims of the owner or
15 previous holder and free and clear of all individuals claiming
16 ownership under the previous owner.

17 ~~((3)(a) A person is guilty of unlawful use of a crab pot removal~~
18 ~~permit if the person:~~

19 ~~(i) Violates any terms or conditions of the permit issued under~~
20 ~~this section; or~~

21 ~~(ii) Violates any rule of the department applicable to the~~
22 ~~requirement for, issuance of, or use of the permit.~~

23 ~~(b) Unlawful use of a crab pot removal permit is a misdemeanor.))~~

24 (5) A violation of this section, or any rules or permit conditions
25 provided under this section, is punishable as provided in RCW
26 77.15.750.

27 (6) Individuals who remove shellfish pots under a valid crab pot
28 removal permit or a valid shellfish pot removal permit in accordance
29 with this section are not subject to permitting under RCW 77.55.021.

30 **Sec. 4.** RCW 77.15.520 and 1998 c 190 s 37 are each amended to read
31 as follows:

32 (1) Except for actions involving shellfish gear punishable under
33 section 1 of this act, a person is guilty of commercial fishing using
34 unlawful gear or methods if the person acts for commercial purposes and
35 takes or fishes for any fish or shellfish using any gear or method in
36 violation of a rule of the (~~department~~) commission specifying,

1 regulating, or limiting the gear or method for taking, fishing, or
2 harvesting of such fish or shellfish.

3 (2) Commercial fishing using unlawful gear or methods is a gross
4 misdemeanor.

5 **Sec. 5.** RCW 77.15.380 and 2001 c 253 s 39 are each amended to read
6 as follows:

7 (1) A person is guilty of unlawful recreational fishing in the
8 second degree if the person fishes for, takes, possesses, or harvests
9 fish or shellfish and:

10 (a) The person does not have and possess the license or the catch
11 record card required by chapter 77.32 RCW for such activity; or

12 (b) The action violates any rule of the commission or the director
13 regarding seasons, bag or possession limits but less than two times the
14 bag or possession limit, closed areas, closed times, or any other rule
15 addressing the manner or method of fishing or possession of fish,
16 except for use of a net to take fish as provided for in RCW 77.15.580
17 and the unlawful use of shellfish gear for personal use as provided in
18 section 2 of this act.

19 (2) Unlawful recreational fishing in the second degree is a
20 misdemeanor.

21 **Sec. 6.** RCW 63.21.080 and 2009 c 355 s 2 are each amended to read
22 as follows:

23 This chapter shall not apply to:

24 (1) Motor vehicles under chapter 46.52 RCW;

25 (2) Unclaimed property in the hands of a bailee under chapter 63.24
26 RCW;

27 (3) Uniform disposition of unclaimed property under chapter 63.29
28 RCW;

29 (4) Secured vessels under chapter 79A.65 RCW; and

30 (5) Crab or other shellfish pots in coastal marine or Puget Sound
31 waters under RCW 77.70.500.

32 **Sec. 7.** RCW 77.12.865 and 2005 c 146 s 1004 are each amended to
33 read as follows:

34 (1) As used in this section and RCW 77.12.870, "derelict fishing
35 gear" includes lost or abandoned fishing nets, fishing lines, (~~crab~~

1 ~~pots, shrimp pots,~~) and other commercial and recreational fishing
2 equipment. The term does not include lost or abandoned vessels or
3 shellfish pots.

4 (2) The department, in partnership with the Northwest straits
5 commission, the department of natural resources, and other interested
6 parties, must publish guidelines for the safe removal and disposal of
7 derelict fishing gear. The guidelines (~~must be completed by August~~
8 ~~31, 2002, and~~) may be updated as deemed necessary by the department.
9 The guidelines must be made available to any person interested in
10 derelict fishing gear removal.

11 (3) Derelict fishing gear removal conducted in accordance with the
12 guidelines prepared in subsection (2) of this section is not subject to
13 permitting under RCW 77.55.021.

14 **Sec. 8.** RCW 77.12.870 and 2009 c 333 s 21 are each amended to read
15 as follows:

16 (1) The department, in consultation with the Northwest straits
17 commission, the department of natural resources, and other interested
18 parties, must create and maintain a database of known derelict fishing
19 gear and shellfish pots, including the type of gear and its location.

20 (2) A person who loses or abandons commercial fishing gear or
21 shellfish pots within the waters of the state is encouraged to report
22 the location of the loss and the type of gear lost to the department
23 within forty-eight hours of the loss.

24 **Sec. 9.** RCW 77.15.750 and 2009 c 333 s 14 are each amended to read
25 as follows:

26 (1) A person is guilty of unlawful use of a department permit if
27 the person:

28 (a) Violates any terms or conditions of the permit issued by the
29 department or the director; or

30 (b) Violates any rule of the commission or the director applicable
31 to the requirement for, issuance of, or use of the permit.

32 (2)(a) Permits covered under subsection (1) of this section
33 include, but are not limited to, master hunter permits, crab pot
34 removal permits and shellfish pot removal permits under RCW 77.70.500,
35 depredation permits, landowner hunting permits, commercial carp license

1 permits, permits to possess or dispense beer or malt liquor pursuant to
2 RCW 66.28.210, and permits to hold, sponsor, or attend an event
3 requiring a banquet permit from the liquor control board.

4 (b) Permits excluded from subsection (1) of this section include
5 fish and wildlife lands vehicle use permits, commercial use or activity
6 permits, noncommercial use or activity permits, parking permits,
7 experimental fishery permits, trial commercial fishery permits, and
8 scientific collection permits.

9 (3) Unlawful use of a department permit is a misdemeanor.

10 (4) A person is guilty of unlawful use of an experimental fishery
11 permit or a trial commercial fishery permit if the person:

12 (a) Violates any terms or conditions of the permit issued by the
13 department or the director; or

14 (b) Violates any rule of the commission or the director applicable
15 to the issuance or use of the permit.

16 (5) Unlawful use of an experimental fishery permit or a trial
17 commercial fishery permit is a gross misdemeanor.

18 (6) The definitions in this subsection apply throughout this
19 section unless the context clearly requires otherwise.

20 (a) "Experimental fishery permit" means a permit issued by the
21 director for either:

22 (i) An "emerging commercial fishery," defined as a fishery for a
23 newly classified species for which the department has determined that
24 there is a need to limit participation; or

25 (ii) An "expanding commercial fishery," defined as a fishery for a
26 previously classified species in a new area, by a new method, or at a
27 new effort level, for which the department has determined that there is
28 a need to limit participation.

29 (b) "Trial commercial fishery permit" means a permit issued by the
30 department for trial harvest of a newly classified species or harvest
31 of a previously classified species in a new area or by a new means.

32 **Sec. 10.** RCW 77.55.041 and 2005 c 146 s 302 are each amended to
33 read as follows:

34 (1) The removal of derelict fishing gear does not require a permit
35 under this chapter if the gear is removed according to the guidelines
36 described in RCW 77.12.865.

1 (2) The removal of crab and other shellfish gear does not require
2 a permit under this chapter if the gear is removed under a permit
3 issued pursuant to RCW 77.70.500.

4 **Sec. 11.** RCW 77.32.430 and 2009 c 333 s 40 are each amended to
5 read as follows:

6 (1) Catch record card information is necessary for proper
7 management of the state's food fish and game fish species and shellfish
8 resources. Catch record card administration shall be under rules
9 adopted by the commission. There is no charge for an initial catch
10 record card. Each subsequent or duplicate catch record card costs ten
11 dollars.

12 (2) A license to take and possess Dungeness crab is only valid in
13 Puget Sound waters east of the Bonilla-Tatoosh line if the fisher has
14 in possession a valid catch record card officially endorsed for
15 Dungeness crab. The endorsement shall cost no more than three dollars,
16 including any or all fees authorized under RCW 77.32.050, when
17 purchased for a personal use saltwater, combination, or shellfish and
18 seaweed license. The endorsement shall cost no more than one dollar,
19 including any or all fees authorized under RCW 77.32.050, when
20 purchased for a temporary combination fishing license authorized under
21 RCW 77.32.470(3)(a).

22 (3) Catch record cards issued with affixed temporary short-term
23 charter stamp licenses are not subject to the ten-dollar charge nor to
24 the Dungeness crab endorsement fee provided for in this section.
25 Charter boat or guide operators issuing temporary short-term charter
26 stamp licenses shall affix the stamp to each catch record card issued
27 before fishing commences. Catch record cards issued with a temporary
28 short-term charter stamp are valid for one day.

29 (4) The department shall include provisions for recording marked
30 and unmarked salmon in catch record cards issued after March 31, 2004.

31 (5)(a) The funds received from the sale of catch record cards and
32 the Dungeness crab endorsement must be deposited into the state
33 wildlife account created in RCW 77.12.170. The funds received from the
34 Dungeness crab endorsement may be used only for the sampling,
35 monitoring, and management of catch associated with the Dungeness crab
36 recreational fisheries. Until June 30, 2011, funds received from the

1 Dungeness crab endorsement may be used for the removal and disposal of
2 derelict shellfish gear either directly by the department or under
3 contract with a third party.

4 (b) Moneys allocated under this section shall supplement and not
5 supplant other federal, state, and local funds used for Dungeness crab
6 recreational fisheries management.

7 NEW SECTION. Sec. 12. (1) The department of fish and wildlife
8 shall, in cooperation with stakeholders in the recreational and
9 commercial crab fisheries and other knowledgeable individuals, as
10 deemed appropriate by the director of the department, deliver to the
11 appropriate committees of the legislature findings and recommendations
12 relating to the following topics:

13 (a) The scope of the derelict shellfish gear problem in Washington
14 waters, including estimates of the existing quantity of derelict gear
15 and estimates of annual shellfish gear loss;

16 (b) The cost of recovering and disposing of derelict shellfish
17 gear;

18 (c) Technical and legal barriers to recovering and disposing of
19 derelict shellfish gear;

20 (d) Possible public education efforts to prevent future shellfish
21 gear loss and to promote compliance with required gear specifications;

22 (e) Possible changes to the current funding structure for derelict
23 shellfish gear removal and Dungeness crab sampling, monitoring, and
24 management, which may include the termination or alteration of the
25 existing Dungeness crab assessment required under RCW 77.32.430 and the
26 identification of possible new funding sources.

27 (2) If deemed practicable by the director of the department of fish
28 and wildlife, the findings and recommendations included in the report
29 required in this section should be informed by the actual collection of
30 derelict shellfish pots.

31 (3) Findings and recommendations required under this section must
32 be submitted consistent with RCW 43.01.036 by December 31, 2010.

33 (4) This section expires July 31, 2011.

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