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HOUSE BILL 1821

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State of Washington                      62nd Legislature                      2011 Regular Session

By Representatives McCoy, Rolfes, Upthegrove, Dunshee, Angel, and Pedersen

Read first time 02/03/11. Referred to Committee on Agriculture & Natural Resources.

1            AN ACT Relating to investing in the economy of the state of  
2 Washington by creating a mechanism to enhance the production of Pacific  
3 salmon in waters located east of Cape Flattery and subject to the  
4 agreements made by the state government, the federal government, and  
5 tribal governments relating to the cooperative management of the  
6 resource; amending RCW 82.27.010, 82.27.030, 82.27.050, 82.27.060,  
7 82.27.070, and 77.12.459; adding a new section to chapter 82.27 RCW;  
8 and adding new sections to chapter 77.95 RCW.

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

10           **Sec. 1.** RCW 82.27.010 and 1995 c 372 s 4 are each amended to read  
11 as follows:

12           As used in this chapter, the following terms have the meanings  
13 indicated unless the context clearly requires otherwise.

14           (1) "Enhanced food fish" includes all species of food fish, except  
15 all species of tuna, mackerel, and jack; shellfish; and anadromous game  
16 fish, including by-products and parts thereof, originating within the  
17 territorial and adjacent waters of Washington and salmon originating  
18 from within the territorial and adjacent waters of Oregon, Washington,  
19 and British Columbia, and all troll-caught Chinook salmon originating

1 from within the territorial and adjacent waters of southeast Alaska.  
2 As used in this subsection, "adjacent" waters of Oregon, Washington,  
3 and Alaska are those comprising the United States fish conservation  
4 zone; "adjacent" waters of British Columbia are those comprising the  
5 Canadian two hundred mile exclusive economic zone; and "southeast  
6 Alaska" means that portion of Alaska south and east of Cape Suckling to  
7 the Canadian border. For purposes of this chapter, point of  
8 origination is established by a document which identifies the product  
9 and state or province in which it originates, including, but not  
10 limited to fish tickets, bills of lading, invoices, or other  
11 documentation required to be kept by governmental agencies.

12 (2) "Commercial" means related to or connected with buying,  
13 selling, bartering, or processing.

14 (3) "Possession" means the control of enhanced food fish by the  
15 owner and includes both actual and constructive possession.  
16 Constructive possession occurs when the person has legal ownership but  
17 not actual possession of the enhanced food fish.

18 (4) "Anadromous game fish" means steelhead trout and anadromous  
19 cutthroat trout and Dolly Varden char and includes by-products and also  
20 parts of anadromous game fish, whether fresh, frozen, canned, or  
21 otherwise.

22 (5) "Landed" means the act of physically placing enhanced food fish  
23 (a) on a tender in the territorial waters of Washington; or (b) on any  
24 land within or without the state of Washington including wharves,  
25 piers, or any such extensions therefrom.

26 (6) "Salmon" means all species of Pacific salmon, other than  
27 steelhead, from both wild stock or hatchery origins.

28 (7) "Puget Sound" has the same meaning as defined in RCW 90.71.010.

29 (8) "Assessment-qualifying catch" means all salmon caught in Puget  
30 Sound under a commercial license issued by the department of fish and  
31 wildlife and that is subject to the Puget Sound salmon enhancement  
32 assessment created in section 2 of this act.

33 NEW SECTION. Sec. 2. A new section is added to chapter 82.27 RCW  
34 to read as follows:

35 (1) In addition to the excise tax on the commercial possession of  
36 enhanced food fish provided in RCW 82.27.020, there is also to be  
37 collected at the same time and, except as otherwise provided in this

1 section, in the same manner a Puget Sound salmon enhancement assessment  
2 for all salmon caught in Puget Sound under a commercial license issued  
3 by the department of fish and wildlife.

4 (2) Except as otherwise provided in this section, the Puget Sound  
5 salmon enhancement assessment is five percent of the value of the  
6 salmon at the point of landing.

7 (3)(a) In instances when the harvester sells an assessment-  
8 qualifying catch to a fish buyer licensed under RCW 77.65.280, the fish  
9 buyer is responsible for collecting the entire Puget Sound salmon  
10 enhancement assessment. However, of the five percent of value  
11 collected, one-half must be contributed by the harvester of the salmon  
12 and one-half must be contributed by the fish buyer. The portion of the  
13 assessment contributed by the harvester must be separately accounted  
14 for by the fish buyer as a line item on the associated forms and may  
15 not be simply deducted from the price paid to the harvester.

16 (b) In instances when a harvester exports the harvester's  
17 assessment-qualifying catch outside of Washington, or otherwise sells  
18 his or her catch to a party that is not a licensed fish buyer under RCW  
19 77.65.280, the harvester is responsible for the entire Puget Sound  
20 salmon enhancement assessment.

21 **Sec. 3.** RCW 82.27.030 and 1995 2nd sp.s. c 7 s 1 are each amended  
22 to read as follows:

23 The tax imposed by RCW 82.27.020 and the assessment imposed by  
24 section 2 of this act shall not apply to: (1) Enhanced food fish  
25 originating outside the state which enters the state as (a) frozen  
26 enhanced food fish or (b) enhanced food fish packaged for retail sales;  
27 (2) the growing, processing, or dealing with food fish or shellfish  
28 which are raised from eggs, fry, or larvae and which are under the  
29 physical control of the grower at all times until being sold or  
30 harvested; and (3) food fish, shellfish, anadromous game fish, and by-  
31 products or parts of food fish shipped from outside the state which  
32 enter the state, except as provided in RCW 82.27.010, provided the  
33 taxpayer must have documentation showing shipping origination of fish  
34 exempt under this subsection to qualify for exemption. Such  
35 documentation includes, but is not limited to fish tickets, bills of  
36 lading, invoices, or other documentation required to be kept by  
37 governmental agencies.

1       **Sec. 4.** RCW 82.27.050 and 1980 c 98 s 5 are each amended to read  
2 as follows:

3       All of the provisions of chapters 82.02 and 82.32 RCW shall be  
4 applicable and have full force and effect with respect to taxes and  
5 assessments imposed under this chapter. The meaning attributed to  
6 words and phrases in chapter 82.04 RCW, insofar as applicable, shall  
7 have full force and effect with respect to taxes imposed under this  
8 chapter.

9       **Sec. 5.** RCW 82.27.060 and 2006 c 256 s 3 are each amended to read  
10 as follows:

11       The taxes and assessments levied by this chapter shall be due for  
12 payment monthly and remittance therefor shall be made within twenty-  
13 five days after the end of the month in which the taxable activity  
14 occurs. The taxpayer on or before the due date shall make out a signed  
15 return, setting out such information as the department of revenue may  
16 require, including the gross measure of the tax, any deductions,  
17 credits, or exemptions claimed, and the amount of tax due for the  
18 preceding monthly period, which amount shall be transmitted to the  
19 department along with the return.

20       The department may relieve any taxpayer from the obligation of  
21 filing a monthly return and may require the return to cover other  
22 periods, but in no event may periodic returns be filed for a period  
23 greater than one year. In such cases tax payments are due on or before  
24 the last day of the month next succeeding the end of the period covered  
25 by the return.

26       **Sec. 6.** RCW 82.27.070 and 2010 c 193 s 17 are each amended to read  
27 as follows:

28       (1) All taxes collected by the department of revenue under this  
29 chapter shall be deposited in the state general fund except for:

30       (a) The excise tax on anadromous game fish, which shall be  
31 deposited in the state wildlife account; and

32       (b) The Puget Sound salmon enhancement assessment collected under  
33 section 2 of this act, which must be deposited in the salmon  
34 enhancement assessment dedicated account created in section 7 of this  
35 act.

1       (2) From January 1, 2000, to December 31, 2013, or until the  
2 department of fish and wildlife notifies the department that the  
3 license reduction goals of the sea urchin or sea cucumber fishery have  
4 been met, whichever occurs first, twenty-five forty-sixths of the  
5 revenues derived from the excise tax on sea urchins collected under RCW  
6 82.27.020 shall be deposited into the sea urchin dive fishery account  
7 created in RCW 77.70.150, and twenty-five forty-sixths of the revenues  
8 derived from the excise tax on sea cucumbers collected under RCW  
9 82.27.020 shall be deposited into the sea cucumber dive fishery account  
10 created in RCW 77.70.190.

11       NEW SECTION. **Sec. 7.** A new section is added to chapter 77.95 RCW  
12 to read as follows:

13       (1) The salmon enhancement assessment dedicated account is created  
14 in the state treasury. All receipts from Puget Sound salmon  
15 enhancement assessment collected under section 2 of this act must be  
16 deposited into the account. Moneys in the account may be spent only  
17 after appropriation. Expenditures from the account may only be used in  
18 a manner consistent with section 8 of this act.

19       (2) In addition to receipts from the Puget Sound salmon enhancement  
20 assessment collected under section 2 of this act, the salmon  
21 enhancement assessment dedicated account may receive voluntary  
22 assessments donated by tribal fishers or other donations made for the  
23 purposes of salmon enhancement.

24       NEW SECTION. **Sec. 8.** A new section is added to chapter 77.95 RCW  
25 to read as follows:

26       (1) The director must identify one qualifying organization to  
27 partner with the department in order to enhance the harvest  
28 opportunities for salmon and to undertake salmon enhancement projects.  
29 The qualifying organization must be a private, not-for-profit  
30 organization, incorporated prior to the effective date of this section  
31 that has salmon enhancement activities as an organizational mission and  
32 can demonstrate that the majority representation on its board of  
33 directors is composed of individuals who must pay Puget Sound salmon  
34 enhancement assessments under section 2 of this act.

35       (2) The director must provide as a noncompetitive grant all revenue  
36 deposited by the department of revenue into the salmon enhancement

1 assessment dedicated account created in section 7 of this act to the  
2 qualifying organization. Neither the department, any other state  
3 agency, nor any other organization may be provided with any revenue  
4 from the salmon enhancement assessment dedicated account and revenue  
5 from the account may only be used by the qualifying organization for  
6 salmon enhancement projects.

7 (3)(a) Salmon enhancement projects undertaken by the qualifying  
8 organization and funded by grants from the salmon enhancement  
9 assessment dedicated account include the operation of hatcheries and  
10 other projects designed to increase the production of Pacific salmon.  
11 Unless otherwise specifically authorized by the department, all salmon  
12 enhancement projects funded through grants under this section must be  
13 located within Puget Sound, as that term is defined in RCW 90.71.010.

14 (b) The authority to use grant money for the operation of  
15 hatcheries is to be interpreted broadly to include all activities that  
16 support the operation of Pacific salmon hatcheries. This includes the  
17 harvest of broodstock, the incubation of eggs, the rearing of smolts,  
18 the release of fry, and associated research and educational activities.  
19 All hatchery operation enhancement projects must be carried out by the  
20 qualifying organization consistent with all state laws relating to  
21 hatchery salmon production and release.

22 **Sec. 9.** RCW 77.12.459 and 1998 c 190 s 74 are each amended to read  
23 as follows:

24 (1) Except as otherwise provided in this section, a person other  
25 than the United States, an Indian tribe recognized as such by the  
26 federal government, the state, a subdivision of the state, or a  
27 municipal corporation or an agency of such a unit of government shall  
28 not release salmon or steelhead trout into the public waters of the  
29 state and subsequently to recapture and commercially harvest such  
30 salmon or trout.

31 (2) This section shall not prevent:

32 (a) Any person from rearing salmon or steelhead trout in pens or in  
33 a confined area under circumstances where the salmon or steelhead trout  
34 are confined and never permitted to swim freely in open water; or

35 (b) Any qualifying organization partnering with the department for  
36 salmon enhancement under section 8 of this act from operating a salmon

1 hatchery and releasing salmon for subsequent recapture and commercial  
2 harvest under the authority of the department.

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