

HOUSE BILL REPORT

HB 1062

As Passed House:
March 7, 2019

Title: An act relating to expanding access to commercial fishing opportunities.

Brief Description: Expanding access to commercial fishing opportunities.

Sponsors: Representatives Blake and Walsh.

Brief History:

Committee Activity:

Rural Development, Agriculture, & Natural Resources: 1/16/19, 1/29/19 [DP].

Floor Activity:

Passed House: 3/7/19, 98-0.

Brief Summary of Bill

- Removes the prohibition on creating a security interest in a commercial fishing license.
- Provides that the transfer of a commercial fishing license is subject to the approval of the Washington Department of Fish and Wildlife (WDFW) according to rules the WDFW may adopt.
- Provides that the transfer of a commercial fishing license without the written consent of each person holding a security interest in the license is void.

HOUSE COMMITTEE ON RURAL DEVELOPMENT, AGRICULTURE, & NATURAL RESOURCES

Majority Report: Do pass. Signed by 14 members: Representatives Blake, Chair; Shewmake, Vice Chair; Chandler, Ranking Minority Member; Dent, Assistant Ranking Minority Member; Chapman, Dye, Fitzgibbon, Kretz, Lekanoff, Orcutt, Pettigrew, Ramos, Schmick and Walsh.

Staff: Robert Hatfield (786-7117).

Background:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Commercial Fishing Licenses.

The Department of Fish and Wildlife (WDFW) manages the commercial harvest of food fish, shellfish, and salmon. Commercial fishers must obtain applicable licenses from the WDFW.

No security interest or lien of any kind, including tax liens, may be created or enforced in a commercial fishing license. Transfers of commercial fishing licenses are subject to various requirements, including timing restrictions and the payment of fees.

Although commercial fishing licenses are not personal property, they are treated as analogous to personal property for purposes of inheritance and intestacy. Commercial fishing licenses are subject to various state laws, including wills, trusts, and estates, except that commercial fishing licenses are exempt from claims of creditors of the estate and tax liens.

Uniform Commercial Code.

The Uniform Commercial Code (UCC) is a model code drafted by the National Conference of Commissioners on Uniform State Laws for the purpose of providing a consistent and integrated framework of rules to deal with commercial transactions. All 50 states have adopted the UCC. In Washington, the UCC is codified at Title 62A RCW.

Article 9 of the UCC governs the creation and operation of security interests in various types of personal property and fixtures. A security interest is the interest of a creditor in the property of a debtor, used to secure payment of a debt. Article 9 also provides remedies and procedures in the event that a debtor defaults on an obligation.

Summary of Bill:

The prohibition on the creation of a security interest in a commercial fishing license is removed. Commercial fishing licenses are treated as analogous to personal property for the purpose of enforcing security interests pursuant to the Uniform Commercial Code (UCC).

Transfers of a commercial fishing license are subject to the approval of the Washington Department of Fish and Wildlife (WDFW) according to any rules the WDFW may adopt. The transfer of a commercial fishing license without the written consent of each person holding a security interest in the license is void.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) One challenge with lending to commercial fishers is figuring out how to reduce the amount of capital the fisher needs to come to the loan transaction with. California and Oregon both allow for a commercial fishing license to be liened and attached to the fisher's

vessel, which provides a lower barrier of entry to people hoping to become commercial fishers.

As an example, a new commercial fishing permit might cost \$110,000, and a new fishing boat might cost \$200,000, for a total cost of \$310,000. If a bank can loan at 65 percent of loan-to-value, then a bank in Washington can loan only a total of \$130,000, because the bank can only loan on the value of the boat, not the value of the license. As a result, in Washington, a commercial fisher would need to come up with about \$180,000 in order to enter the market. By contrast, in California a bank can also loan on the value of the license, which means the bank can loan just over \$200,000, and the commercial fisher only needs to come up with about \$108,000 to get started.

If a borrower defaults, there are secondary markets where a permit can be sold. One cannery owner issues loans based on licenses, but simply takes the commercial fishing license outright. A bank that can take a lien on a license can lend at around 6 percent, whereas some other lenders lend at 10 percent or 12 percent.

It appears the reason for the current prohibition on taking a lien on a license is to protect fishers from bankruptcy or other proceedings, where a party outside of the loan transaction is placing a lien on the license. This bill opens up the statute just enough to allow a secured transaction lien, but not other liens.

A combined boat-permit loan would lend over a seven to 10 year term, with annual payments coming due toward the middle of the fishing season. In 26 years of making loans to commercial fishers, one banker has only had to repossess one boat.

(Opposed) None.

Persons Testifying: Representative Blake, prime sponsor; and Andrew Mesojednik, Bank of the Pacific.

Persons Signed In To Testify But Not Testifying: None.