

# SENATE BILL REPORT

## SB 5567

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As of February 3, 2022

**Title:** An act relating to commercial salmon fishing.

**Brief Description:** Concerning commercial salmon fishing.

**Sponsors:** Senators Van De Wege and Salomon.

**Brief History:**

**Committee Activity:** Agriculture, Water, Natural Resources & Parks: 1/13/22, 1/20/22  
[DPS-WM, w/oRec].  
Ways & Means: 2/03/22.

**Brief Summary of First Substitute Bill**

- Removes the restriction on the use of pound nets, round haul nets, fish traps, fish wheels and certain other gear for catching salmon and steelhead.
- Directs the Department of Fish and Wildlife (DFW) to submit a plan to the appropriate committees of the Legislature by December 1, 2022, on any changes necessary to implement a commercial pound net fishery.
- Directs DFW, by rule, to authorize and implement a commercial pound net fishery in the lower Columbia River no later than June 1, 2023.
- Directs DFW, by rule, to authorize the use of fixed gear fishing types.

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### SENATE COMMITTEE ON AGRICULTURE, WATER, NATURAL RESOURCES & PARKS

**Majority Report:** That Substitute Senate Bill No. 5567 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Van De Wege, Chair; Salomon, Vice Chair; Rolfes and Stanford.

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

**Minority Report:** That it be referred without recommendation.

Signed by Senators Warnick, Ranking Member; Honeyford and Short.

**Staff:** Jeff Olsen (786-7428)

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## SENATE COMMITTEE ON WAYS & MEANS

**Staff:** Jed Herman (786-7346)

**Background:** The Department of Fish and Wildlife (DFW) serves as manager of the state's fish and wildlife resources. Among other duties, DFW must protect and manage fish and wildlife, including establishing the time, place, manner, and methods used to harvest or enjoy fish and wildlife.

DFW manages the commercial harvest of fish and shellfish. Commercial fishers must obtain applicable licenses from DFW, and commercial fishing license fees are generally structured by species and fishing gear, with a resident and nonresident fee for each license type. For example, the salmon gill net license fee is \$380 for a resident and \$765 for a non-resident.

The use of certain fishing gear, including pound nets, fish traps and weirs are prohibited for the capture of salmon or steelhead, except under a trial or experimental fishery permit when an emerging commercial fishery has been designated.

**Summary of Bill (First Substitute):** The restriction on the use of pound nets, round haul nets, fish traps, fish wheels and certain other gear for catching salmon and steelhead is removed.

DFW may by rule authorize the use of fixed fishing gear types including pound nets, fish traps, and weirs for the selective commercial harvest of salmon and the release of threatened and endangered salmonids. DFW must develop a plan to authorize, implement, and regulate alternative commercial salmon fishing gear types prior to the implementation of alternative gear commercial fisheries. Any fisheries conducted with alternative commercial salmon fishing gears must:

- release threatened and endangered salmonids with minimal mortality;
- be conducive to the mark-selective harvest of excess hatchery-reared salmon consistent with federal conditions for hatchery production and genetic protections for wild and endangered salmon populations;
- ensure compliance with tribal treaty fishing rights and state-tribal fishery management agreements; and
- Remain within established allocations for the commercial sector and ensure adequate escapement for the needs of recreational fisheries and hatchery broodstock.

DFW must, by rule, authorize and implement a commercial pound net fishery in the lower

Columbia River no later than June 1, 2023. DFW must submit a plan with findings and recommendations to the appropriate committees of the Legislature by December 1, 2022, on license structures and fees, any necessary rule changes, and any other actions necessary to authorize, implement, and regulate a commercial pound net fishery.

**EFFECT OF CHANGES MADE BY AGRICULTURE, WATER, NATURAL RESOURCES & PARKS COMMITTEE (First Substitute):**

- Removes the fees established for a salmon pound net license and also removes increases to the Enhanced Food Fish Excise tax on salmon.
- Allows DFW, by rule, to authorize the use of fixed gear fishing types.
- Provides that fisheries conducted with alternative fishing gears must release threatened and endangered salmon with minimal mortality, be consistent with mark-selective harvest of hatchery stocks, ensure compliance with tribal fishing rights, and remain within established allocations to ensure adequate escapement for recreational fisheries and hatchery broodstock.
- Directs DFW, by rule, to authorize and implement a commercial pound net fishery in the lower Columbia River no later than June 1, 2023. DFW must submit a plan with findings and recommendations to the appropriate committees of the Legislature by December 1, 2022, on license structures and fees, any necessary rule changes, and any other actions necessary to authorize, implement, and regulate a commercial pound net fishery.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

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

**Staff Summary of Public Testimony on Original Bill (Agriculture, Water, Natural Resources & Parks):** *The committee recommended a different version of the bill than what was heard.* PRO: Fish traps were historically very effective at catching salmon. Pound nets have been used recently in an experimental fishery and have proven to be very selective, allowing for the harvest of healthy stocks and releasing wild salmon unharmed. Peer reviewed science studies show survival rates for wild stocks with fish traps near 99 percent. Alternative gear can reduce mortality and benefit the recovery of wild salmon. Purchasers of salmon want to support sustainable and safe harvest of salmon. The use of pound nets is a valuable tool that is missing from the state's toolbox. Hatchery and harvest reform are necessary. Wild salmon runs have been weakened by the lack of harvest reform. By using fish traps, more harvest could be moved to rivers from the ocean, which would help orcas. A fish trap is a fixed gear fishery that could be developed with community input and is the most sustainable fishery.

CON: This bill is unnecessary, and attempts to bypass the process to evaluate a process that is underway to evaluate alternative gear types. Mortality rates with pound nets would need to be approved by technical advisory committees before they could be valid. It is unclear if pound nets are economically viable. The current gillnet fishery is not a problem, and it is selective by timing and gear type. The gillnet fishery stays within fishery guidelines, has a great record of harvesting fish within harvest impacts, and produces a high quality fish.

OTHER: Fisheries are managed within constraints, having a diversity of tools allow management options. With an emerging fisheries designation, the WDFW is able to evaluate gear in a commercial setting and to report findings to the Legislature. There are several implementation hurdles, including the need to obtain permits and site leases. There are other alternative gear types, including seines, that are being evaluated. The excise tax was most recently raised in 2017 with the support of the commercial fishing industry. Columbia River steelhead are at high risk, and every fish is important. The fish policy issues in the bill should be separated from the fiscal issues. Pound nets should not be an additive harvest tool, but should be a transition from gill nets. Recreational fisheries should not be negatively impacted by this new fishery.

**Persons Testifying (Agriculture, Water, Natural Resources & Parks):** PRO: Senator Kevin Van De Wege, Prime Sponsor; Adrian Tuohy, Wild Fish Conservancy; Renee Erickson, Owner/Chef, Sea Creatures Restaurants; John Skalski, University of Washington, Professor Emeritus; Aaron Jorgenson, Wild Fish Conservancy; Miranda Wecker; Brittany O'Brien, Wild Fish Conservancy; Dr. Jack Stanford, Former Member, Independent Scientific Advisory Board (ISAB); David Bain, Orca Conservancy; Lee Blankenship; Frank Haw; Billie Delaney, N/A; Doug Hennick, Wild Fish Conservancy; Carl Burke, NW Marine Trade Assoc and NW Sportsfishing Assoc.

CON: Robert Sudar.

OTHER: Charlene Hurst, WDFW; Nello Picinich, Coastal Conservation Association; Alexei Calambokidis, Trout Unlimited.

**Persons Signed In To Testify But Not Testifying (Agriculture, Water, Natural Resources & Parks):** No one.

**Staff Summary of Public Testimony on First Substitute (Ways & Means):** PRO: I have spent years researching the gear type listed in this bill and am sure that it will do a better job in saving wild salmon. I have committed years of work to get fish traps legalized, today's gear has modern advances over gear from the past, it works. The salmon fishery is at a point of crisis with too much take of wild fish. Today fish traps work better than in 1934. There are too many nets in the rivers. Alternative gear lets the wild fish get sorted out. The bill will result in reducing the impacts to wild salmon. I know commercial fishermen who see this as a promising tool.

CON: We are not there yet, this policy is out in front of the science. We already have a process to test new gear types with the DFW. There is no financial benefit. This bill would reduce the fishing fleet. The prohibition was put there by a vote of the people. If I were a senator I wouldn't touch this. Using pound nets will destroy the environment. You have no idea of the permitting costs. No one can afford the alternate gear and it isn't proven to be financially sound. This will turn into a fish war.

OTHER: DFW would like to delay the timelines in the bill to allow coordination with others. This bill lacks direction. We think the license buy-back is the right start.

**Persons Testifying (Ways & Means):** PRO: Adrian Tuohy, Wild Fish Conservancy; Blair Peterson, Alternative Gear Commercial Fisher; William Atlas; Jack Stanford; Lee Blankenship; aaron jorgenson, Wild Fish Conservancy.

CON: Robert Sudar; Greg Johnson; Bryce Divine; Brian Love; Peter Knutson, Director, Puget Sound Harvesters' Association; Ron Garner, Puget Sound Anglers State Board.

OTHER: Charlene Hurst, WDFW; Nello Picinich, Coastal Conservation Association.

**Persons Signed In To Testify But Not Testifying (Ways & Means):** No one.