

## CHAPTER 12.

[ H. B. 8. ]

## FOOD FISH AND SHELLFISH—FISHERIES CODE.

AN ACT relating to food fish and shellfish; enacting a fisheries code to be known as Title 75 of the Revised Code of Washington; providing penalties, and repealing chapter 9, Laws of 1949; chapter 107, Laws of 1949; chapter 99, Laws of 1949; sections 1, 2, 6, 7, 8, 10, 13 through 23, and 25 through 87, chapter 112, Laws of 1949; sections 1 through 38, 42 through 45, and 47 through 49, chapter 271, Laws of 1951; chapter 7, Laws of 1951, 1st extraordinary session; chapter 147, Laws of 1953; and sections 1 through 9, 11, and 15 through 18, chapter 207, Laws of 1953; and declaring an emergency.

*Be it enacted by the Legislature of the State of Washington:*

## TITLE 75

## FOOD FISH AND SHELLFISH

## Chapter 75.04

## DEFINITIONS

**75.04.010 Scope of definitions.** Terms used in this title or in any rule or regulation of the director of fisheries shall have the meaning given to them in this chapter.

**75.04.020 "Director" — "Department" — "Person."** "Director" means the director of fisheries.

"Department" means the department of fisheries.

"Person" includes any individual, any corporation, any government agency, or any group of two or more individuals acting together to forward a common purpose.

**75.04.030 "Fish"—"Fishing."** "Fish" and its derivatives, "fishing," "fished," etc., includes any means or effort made directly or indirectly to kill, injure, disturb, capture, or catch any of the various species of food fish and shellfish.

**75.04.040 "Food fish"—"Shellfish."** "Food fish" and "shellfish" shall be construed to include any and all species of marine and fresh water life classified as such by statute or by the director.

**75.04.050 "Waters of the state."** "Waters of the state" includes all waters within the territorial limits of the state.

**75.04.060 "Offshore waters."** "Offshore waters" includes the waters of the Pacific Ocean and the straits, bays, inlets, coves, and estuaries thereof outside the territorial limits of the state.

**75.04.070 "Personal use."** "Personal use"—The taking or possession of food fish or shellfish "for personal use" means taking or fish-

ing for food fish and shellfish by angling or by such other means and with such gear as the director may authorize for fishing for personal use, or possessing the same for the use of the person fishing for, taking, or possessing the same and not for sale or barter.

**75.04.080 "Commercial purposes."** "Commercial purposes"—The taking, fishing for, possession, processing, or otherwise dealing in or disposing of food fish and shellfish for "commercial purposes" means taking or fishing for food fish with any gear unlawful for fishing for personal use, or taking or possessing the food fish and shellfish in excess of the limits permitted for personal use, or taking, fishing for, handling, processing, or otherwise disposing of or dealing in food fish with the intent of disposing of such food fish, shellfish, or parts thereof for profit, or by sale, barter, trade, or in commercial channels.

**75.04.090 "Resident."** A "resident" means a person who for the preceding one hundred and eighty days has maintained a permanent place of abode within the state with the intent to permanently reside within the state.

**75.04.100 "Angling."** "Angling" means fishing for personal use with one line attached to a pole held in hand while landing the fish, or with a hand operated line without rod or reel, to which may be attached not to exceed two single hooks, or one artificial bait with no more than four multiple hooks.

**75.04.110 "Salmon."** "Salmon" includes the sockeye, silver, chinook, chum, humpback salmon and the so called salmon trout, and each and every species of the genus *oncorhynchus*, commonly known as salmon.

## Chapter 75.08

### ADMINISTRATION AND ENFORCEMENT

**75.08.010 Fisheries code.** This title shall be known and may be cited as the "fisheries code of the state of Washington."

**75.08.020 General duties of director—Patrol vehicles and crafts—Reports and recommendations.** The director shall devote his time to the duties of his office and enforce the laws and regulations of the director relating to propagation, protection, conservation, preservation, and management of food fish and shellfish.

The director shall purchase, construct, charter, and operate vehicles, boats, and aircraft necessary to properly patrol the shores and waters of the state and the offshore waters in the enforcement of this title and the regulations of the director.

The director shall make an annual report on or before the first day of June of each year to the governor, containing a detailed statement of his official actions, of the operation and result of the

laws pertaining to the fish and shellfish industry, the method of taking fish and shellfish, the number of fish and shellfish propagated, and full and complete statistics of the fishing business, and suggestions as to needed legislation whenever he deems it necessary.

**75.08.025 Agreements with department of defense—Regulation, patrol of defense areas.** The authority of the director under the provisions of this title shall extend to negotiating agreements with the department of defense of the United States, or representatives thereof, for the purpose of coordinating and correlating the control of fishing in the waters of the state over which the department of defense, for national defense purposes, has assumed control, to the end that such waters may be utilized for fishing consistent with the safety of fishermen, personnel of the department of defense, and the public; to promulgate and enforce regulations for restricted fishing in said areas and to provide for such patrol of said areas as may be necessary.

**75.08.030 Installations and facilities—Establishment, maintenance.** The director shall establish and maintain state fish hatcheries, rearing stations, cultural stations, eyeing stations, brood ponds, trap sites, buildings, dock and harbor facilities, food fish and shellfish sanctuaries, rights of way, and such other installations and facilities as in his judgment may be necessary for the exercise of the powers and discharge of the duties of the director and the department.

**75.08.040 Lands, waterrights, rights of way—Acquisition, use, and management.** The director shall select and acquire by gift or easement, or whenever funds are appropriated for such purpose, by purchase, lease, or condemnation brought in the name of the state, and by any other lawful means at his disposal, such lands, waterrights, and rights of way, and construct all necessary facilities thereon, as may be necessary for the exercise of the powers and discharge of the duties of the department.

The director shall have authority to sell, lease, convey, or grant concessions upon any property, real or personal, heretofore or hereafter acquired for the state and under the control of the department.

This section amended by sec. 1, chap. 212, Laws of 1955.

**75.08.050 Oyster reserve—Conservation and development.** The director shall examine all oyster reserves and do or cause to be done such things as may be deemed advisable to conserve, protect, and develop such reserves.

**75.08.054 Oyster seed—Importation and inspection.** The director shall have the power to promulgate regulations governing the importation of oyster seed for the purpose of planting in the waters of this state, and he shall have the duty and authority to require

them to be inspected for disease, infestations and pests at such places and in such manner and at such times as he shall deem advisable in order to insure that the oysters in the waters of this state shall not be endangered by the importations of diseased or infested oysters or pests which prey on oysters, and it shall be unlawful for any person to import oysters in this state for the purpose of planting the same in the waters of this state or to plant oyster seed in the waters of this state without first having obtained the authority from the director to do so. The director shall give such authority only after an adequate inspection under his direction has been made and the seed in question has been found to be free of disease, infestation, pests and other substances which might endanger the oysters in the waters of this state.

**75.08.056 Oyster seed—Costs of inspection.** Persons importing oyster seed under the provisions of RCW 75.08.054 shall pay for the actual cost of inspecting the same not to exceed six cents per case. The cost shall be determined by the director of fisheries and shall be prorated among the importers according to the number of cases of oyster seeds each imports. The director of fisheries shall have the authority and it shall be his duty to specify the time and manner of payment.

**75.08.060 State shellfish and shrimp lands.** The director shall examine the clam, mussel and oyster beds located on lands belonging to the state, and with the approval of the state commissioner of public lands, withdraw such lands from sale and lease and make reserves or public beaches thereof. He shall take such steps as are advisable for the conservation, protection, and development of such reserves. He shall do whatever may be necessary for the protection and development of the oyster, shrimp, clam, and mussel beds on state lands or lands under the jurisdiction of the state.

**75.08.070 Territorial authority of director—Regulations same as fisheries commissions.** The authority of the director under the provisions of this title shall extend to all areas and waters within the territorial limits of the state and to the offshore waters; and the director is authorized under the provisions of this title to promulgate and publish regulations corresponding to the recommendations and regulations of the Pacific Marine Fisheries Commission, the International Fisheries Commission, and the International Pacific Salmon Fisheries Commission.

**75.08.080 Rules and regulations—Scope.** The director shall investigate the habits, supply and economic use of, and classify, the food fish and shellfish in the waters of the state and the offshore waters, and from time to time, make, adopt, amend, and promulgate rules and regulations as follows:

(1) Specifying the times when the taking of any or all the various classes of food fish and shellfish is lawful or prohibited.

(2) Specifying and defining the areas, places, and waters in which the taking and possession of the various classes of food fish and shellfish is lawful or prohibited.

(3) Specifying and defining the types and sizes of gear, appliances, or other means that may be lawfully used in taking the various classes of food fish and shellfish, and specifying the times, places, and manner in which it shall be lawful to possess or use the same.

(4) Regulating the possession, disposal, and sale of food fish and shellfish within the state, whether acquired within or without the state, and specifying the times when the possession, disposal, or sale of the various species of food fish or shellfish is prohibited.

(5) Regulating the prevention and suppression of all infectious, contagious, dangerous, and communicable diseases and pests affecting food fish and shellfish.

(6) The fixing of the size, sex, numbers, and amounts of the various classes of food fish and shellfish that may be taken, possessed, sold, or disposed of.

(7) Regulating the landing of the various classes of food fish and shellfish or parts thereof within the state.

(8) Regulating the destruction of predatory seals and sea lions and other predators destructive of food fish or shellfish, and specifying the proof of the destruction of the same that shall be required.

(9) Specifying the statistical and biological reports that shall be required from licensed or nonlicensed fishermen, dealers, boat-houses, handlers, or processors of food fish and shellfish.

(10) Specifying which species of marine and freshwater life are food fish and shellfish.

(11) Classifying the species of food fish and shellfish or parts thereof that may be used for purposes other than human consumption.

(12) Promulgating such other rules and regulations as may be necessary to carry out the provisions of this title and the purposes and duties of the department.

Subdivisions (1), (2), (3), (4), (6), and (7), shall not apply to licensed oyster farms or oysters produced thereon.

**75.08.090 Rules and regulations—Adoption, promulgation, publication.** All rules and regulations of the director, acting director or such person designated by the director, and all amendments to, or modifications or revocations of existing rules and regulations shall be made and adopted by the director and shall be promulgated by publication in a newspaper of general circulation published at

the state capital and shall take effect and be in force at the times specified therein.

**75.08.100 Rules and regulations—As evidence.** Rules and regulations of the director shall be admitted as evidence in the courts of the state when accompanied by an affidavit from the director or assistant director certifying that the rule or regulation has been lawfully adopted, promulgated, and published, and the affidavit shall be prima facie evidence of proper adoption, promulgation, and publication of the rule or regulation.

**75.08.110 Printing of laws, regulations—Approval required.** No person shall print or cause to be printed a booklet or pamphlet of the fisheries laws or regulations of the director or portions thereof without the approval of the director.

**75.08.120 Director may designate fishing areas.** The director is authorized to designate the mouths and fishing limits of all rivers and streams, or other fishing areas by driving piling or by establishing monuments or by description of landmarks or section lines, and his designation shall be final.

**75.08.130 Damaging of printed matter and signs prohibited.** No person shall destroy, tear down, shoot at, deface, or erase any printed matter or signs placed or posted by or under the instructions of the director.

**75.08.140 Brands on fish, etc., from private hatcheries and Indian reservations.** The director shall have authority to require that brands, tags, or other devices be placed upon or attached to all food fish and shellfish sold from private hatcheries or Indian reservations, and to designate such brands, tags, or devices, and the director shall be authorized to charge a fee for such tags.

**75.08.150 Enforcement of laws and regulations—Ex officio deputies.** Every fisheries inspector, deputy fisheries inspector, game protector, sheriff, constable, marshal, and police officer within his respective jurisdiction, shall enforce all laws and all rules and regulations adopted by the director for the protection of food fish and shellfish, and the police officers specified, and United States game wardens, any forest officer appointed by the United States government, state forest wardens and rangers, and each of them, by virtue of their election or appointment, are constituted ex officio deputy fisheries inspectors within their respective jurisdictions.

**75.08.160 Right of entry—Aircraft operated by department.** The director and his duly authorized and acting assistants, fisheries inspectors, deputy fisheries inspectors, and department employees may, in the course of their duties, enter upon any land or waters in this state and remain thereon with any necessary equipment while

performing such duties, and such action by such persons shall not constitute trespass.

It shall be lawful for any aircraft operated by the department to land and take off from any of the beaches or waters of the state and it shall be unlawful for any person to interfere with the operation of such aircraft.

**75.08.170 Inspection and searches without warrant—Seizure of unlawful fish, shellfish.** The director and any fisheries inspector or deputy inspector shall have the power to inspect and search without warrant, any person, boat, fishing appliance, cannery, and any property used in catching, packing, curing, preparing, or storing of food fish or shellfish, or any vehicle, conveyance, container, receptacle, cold storage plant, warehouse, market, tavern, restaurant, club, hotel, or other place, except any private domicile used exclusively as such, or any quarters in any boat, building or other property used exclusively as a private domicile, where he has reason to believe that food fish or shellfish are kept for sale, barter, or other purpose, and which he has reason to believe contain evidence of violations of the fisheries code or of any rule, regulation, or order made by the director.

Any hindrance or interference with any such officer while engaged in making such search shall be prima facie evidence that the person interfering with or hindering such officer is guilty of a violation of this title.

Any of the officers above named may at any time seize and take possession of any food fish or shellfish which has been unlawfully caught, taken, or killed or which is unlawfully possessed in violation of the provisions of the fisheries code or of any order, rule, or regulation made by the director and the same shall be confiscated to the state.

**75.08.180 Search warrants—When to be issued.** Any court having jurisdiction, upon complaint showing probable cause for believing that any food fish or shellfish, or any parts thereof, caught, taken, killed, or had in possession or under control by any person, or shipped or transported contrary to law or rule or regulation of the director, are concealed or kept in any place, shall issue a search warrant and cause a search to be made in any such place for any food fish or shellfish or any parts thereof and may cause any place or container to be entered and searched.

**75.08.190 Arrest without warrant—When authorized—Resisting officer.** The director, and any fisheries inspector, or deputy fisheries inspector, shall have authority to arrest, without writ, order or process, any person in the act of violating any of the provisions of this title, or any of the rules, regulations, or orders made by the director, and they are hereby made peace officers. If any person

knowingly or wilfully resists or opposes such officer in the discharge of his duties or aids and abets such resistance or opposition, he shall be guilty of a gross misdemeanor and shall be fined not less than two hundred and fifty dollars.

**75.08.200 Service, execution of warrants, processes—Assistance.** The director, all fisheries inspectors, and all deputy fisheries inspectors may serve and execute all warrants and processes issued by the courts in enforcing the provisions of law and all rules and regulations of the director pertaining to food fish and shellfish.

For the purpose of enforcing any such law or rule or regulation, they may call to their aid any necessary equipment, boat, vehicle, or airplane, or any sheriff, deputy sheriff, game protector, constable, police officer, or citizen, and any such person shall render such aid.

**75.08.210 Failure to make reports and returns.** It shall be unlawful for any person engaged in the fishing industry or licensed under this title to fail to make any report or return required of him by the fisheries code or by the director.

**75.08.220 False information and reports.** Every person who intentionally gives false or misleading information to the department as to the time, area, or waters in which any food fish or shellfish were taken or who shall intentionally prepare and submit a false or misleading report to the department shall be guilty of a gross misdemeanor and shall be punished by a fine of not less than two hundred and fifty dollars and not more than one thousand dollars or by imprisonment in the county jail for not more than one year or by both such fine and imprisonment.

**75.08.230 Disposition of moneys collected.** All license fees, taxes, fines, and moneys realized from the sale of property seized or confiscated under the provisions of this title, and all bail moneys forfeited under prosecutions instituted under the provisions of this title, and all moneys realized from the sale of any of the property, real or personal, heretofore or hereafter acquired for the state and under the control of the department, and all moneys collected for damages and injuries to any such property, and all moneys collected for rental or concessions from such property, shall be paid into the state treasury general fund: *Provided*, That fifty percent of all money received as fines together with all of the costs shall be retained by the county in which the fine was collected.

All fines collected shall be remitted monthly by the justice of the peace or by the clerk of the court collecting the same to the county treasurer of the county in which the same shall be collected, and the county treasurer shall at least once a month remit fifty percent of the same to the state treasurer and at the same time shall furnish a statement to the director showing the amount of

finances so remitted and from whom collected: *Provided*, That in instances wherein any portion of a fine assessed by a court is suspended, deferred, or otherwise not collected, the entire amount collected shall be remitted by the county treasurer to the state treasurer and shall be credited to the general fund.

**75.08.240 Payment of appropriations and claims—Remittances and statements by director.** All appropriations for the department, and the fisheries division of the state treasurer and all claims against those departments, shall be paid from the general fund.

The director shall make weekly remittances to the state treasurer of all moneys collected by him from any source whatever, together with a statement showing from whence the moneys are derived. A duplicate of this statement shall be sent to the state auditor.

**75.08.250 Auditing of expenses—Drawing warrants.** All expenses incurred under the provisions of this title shall be audited by the state auditor, upon bills presented, properly certified by the director, or his duly authorized assistant, and the said auditor shall draw warrants upon the state treasurer for the amount.

**75.08.260 General penalty for violations.** Unless otherwise provided for in the fisheries code any person who violates any of the provisions of the fisheries code, or any of the rules or regulations of the director made pursuant thereto, or who aids or abets or assists in the violation thereof, shall be guilty of a gross misdemeanor, and upon a conviction thereof shall be punished by imprisonment in the county jail of the county in which the offense is committed for not less than thirty days or more than one year, or by a fine of not less than twenty-five dollars or more than one thousand dollars, or by both such fine and imprisonment.

**75.08.270 Justice and superior courts have concurrent jurisdiction.** Every justice of the peace shall have jurisdiction concurrent with the superior court of all misdemeanors and gross misdemeanors committed in violation of the fisheries code and of the rules, regulations, and orders made by the director in accordance with existing law and to impose any penalty or confiscation provided for such offenses.

**75.08.280 Venue as to violations occurring in offshore waters.** Violations of the fisheries code or the regulations of the director occurring in the offshore waters may be prosecuted in the superior court or justice courts of any county bordering on the Pacific Ocean, or in any county in which the food fish or shellfish are landed.

**Chapter 75.12****TAKING OF FOOD FISH, SHELLFISH**

**75.12.010 Commercial fishing for salmon in certain waters unlawful—Odd years.** It shall be unlawful to fish for, catch, or take any species of salmon for commercial purposes, except as hereinafter provided, within the waters of the Straits of Juan de Fuca, Puget Sound and waters connected therewith within the state of Washington described as lying to the southerly, easterly and southeasterly of a line described as follows:

Commencing at a concrete monument on Angeles Point in Clallam county, state of Washington, near the mouth of the Elwha River on which is inscribed "Angeles Point monument" in the latitude  $48^{\circ} 9' 3''$  north, longitude  $123^{\circ} 33' 01''$  west of Greenwich Meridian; thence running east on a line  $81^{\circ} 30'$  true from said point across the flashlight and bell buoy off Partridge Point and thence continued to where said line intersects longitude  $122^{\circ} 40'$  west; thence north on said line to where said line intersects the southerly shore of Sinclair Island at high tide; thence along the southerly shore of said island to the most easterly point thereof; thence north  $46^{\circ}$  east true to the line of high tide at Carter Point, the most southerly point of Lummi Island; thence northwesterly along the westerly shore line at high tide of said Lummi Island to where said shore line at high tide intersects line of longitude  $122^{\circ} 40'$  west; thence north on said line to where said line intersects the mainland at the line of high tide; including within said area the southerly portion of Hale Passage, Bellingham Bay, Padilla Bay, Fidalgo Bay, Guemes Channel, Skagit Bay, Similk Bay, Saratoga Passage, Holmes Harbor, Possession Sound, Admiralty Inlet, Hood Canal, Puget Sound, and all inlets, passages, waters, waterways, and the tributaries thereof: *Provided*, That, subject to such seasons and regulations as may be established from time to time by the director, fishing for salmon for commercial purposes within the above described waters with gill nets, round haul nets, and troll lines with not to exceed six hooks per boat shall be lawful, and subject to such regulations and to such shorter seasons as the director may establish from time to time, it shall be lawful to fish for salmon for commercial purposes within the above described waters with any lawful gear during the period extending from the fifth day of October to and including the thirtieth day of the following November, except during the hours beginning 4:00 o'clock p. m. of Friday and ending at 4:00 o'clock a. m. of the Sunday following.

*And provided*, That subject to such regulations and to such shorter seasons as the director may establish from time to time, it shall be lawful to fish for salmon for commercial purposes with any

lawful gear in each odd year during the period running from the first day of August to the first day of September, both dates inclusive, in the waters lying inside of the following described line: A line commencing at a red wooden monument located on the most easterly point of Dungeness Spit and thence projected to a similar monument located at Point Partridge on Whidby Island and a line commencing at a red wooden monument located on Olele Point and thence projected easterly to a similar monument located at Bush Point on Whidby Island.

**75.12.020 Taking or molesting fish at or near racks, dams.** It shall be unlawful to catch, kill, or in any manner menace, maim or destroy, any food fish at any rack, dam or other obstruction or in the waters and on the beaches within one mile below any rack, dam or other obstruction when the same are within the territorial limits of the state of Washington or in waters of the Columbia River over which this state has concurrent jurisdiction, unless otherwise specified in the orders of the director.

**75.12.030 Reserved.**

**75.12.040 Gill nets in Columbia River—Maximum length permitted.** It shall be unlawful to construct, install, use, operate, or maintain gill nets which shall exceed 250 fathoms in length in the waters of the Columbia River in this state for the purpose of catching salmon.

**75.12.050 Drag seines unlawful in Columbia River.** It shall be unlawful to construct, install, use, operate, or maintain any drag seine in the waters of the Columbia River in the state for the purpose of taking salmon, and it shall be unlawful to take salmon with such gear.

**75.12.060 Fixed appliances for catching salmon unlawful.** It shall be unlawful to construct, install, use, operate, or maintain within any waters of the state any pound net, round haul net, lampara net, fish trap, fish wheel, scow fish wheel, set net, weir, or any fixed appliance for the purpose of catching salmon, and it shall be unlawful to take salmon by any such means.

**75.12.070 Shooting, gaffing, etc., food or shellfish.** Unless otherwise provided for in the regulations of the director, it shall be unlawful to shoot, gaff, snag, snare, spear, stone, or otherwise molest any food fish or shellfish in any of the waters of the state.

**75.12.080 Discharge of explosives in water unlawful.** It shall be unlawful to use or discharge, in any of the waters of this state, any explosive substance of any kind, character or description except under permit of the director. Where explosives are discharged for the purpose of unlawfully taking or destroying food fish or

shellfish the person so offending shall be fined not less than two hundred and fifty dollars.

**75.12.090 Taking caught fish or stealing gear—Penalty.** It shall be unlawful to take from any building, vehicle, scow, live box, container, trap, seine, line or net, any caught or impounded fish or shellfish with the intent of depriving the rightful owner of such food fish or shellfish and it shall be unlawful to wilfully steal or otherwise molest any of the fishing or shellfishing gear operated under a license from the state. Any person violating this section shall be guilty of a gross misdemeanor and shall be subject to a fine of not less than two hundred and fifty dollars.

**75.12.100 Purchase, etc., of food or shellfish taken unlawfully.** It shall be unlawful for any person to purchase, handle, deal in, sell, or have in his possession any food fish or shellfish which were taken from any of the waters of this state contrary to the provisions of the fisheries code or the regulations of the director.

**75.12.110 Taking, etc., food or shellfish not to be used for human consumption unlawful.** It shall be unlawful to take or fish for or have in possession any food fish or shellfish of any kind, character, or description, or parts thereof, unless the same are to be used for human consumption or bait: *Provided*, That the director shall have the power from time to time to make, adopt, amend, and promulgate in the manner provided by law, rules and regulations permitting the taking, possession, sale, or use of any species of food fish or shellfish or parts thereof for uses other than human consumption and bait.

**75.12.120 Waste of food or shellfish unlawful—Purchase for canning, etc.** It shall be unlawful for any person to wantonly waste or destroy food fish or shellfish taken or caught in any of the waters of the state, or the offshore waters, and no person engaged in the canning, preserving, or curing of food fish and shellfish shall purchase or engage a greater quantity than he is able to can, preserve, or cure within sixty hours after the same are taken from the water, unless such food fish or shellfish have been kept artificially chilled and in good marketable condition.

**75.12.130 Director authorized to take fish or shellfish.** The director may, for the purpose of carrying out his duties, take or remove or cause to be taken or removed in any manner, at any time, any fish or shellfish of any kind, character, or description from any waters or beaches of the state.

**Chapter 75.16****CONSERVATION AND PROPAGATION****75.16.010 Taking food fish for propagation purposes restricted.**

It shall be unlawful for any person or government agency whatsoever, save the director and those authorized by him, to take food fish or shellfish for propagation or scientific purposes within the waters of this state. The director or those authorized by him may take salmon or other food fish or shellfish for public propagation or scientific purposes under such regulations as the director may prescribe to safeguard the interest of the fisheries of this state.

**75.16.020 Planting fish—Consent required.** It shall be unlawful to liberate, release, implant, transplant, or place food fish of any kind or description in any stream, river, pond, lake, or other waters of the state, either fresh or salt, without first obtaining the written consent of the director.

**75.16.030 Prevention and suppression of infectious diseases and pests.** The director shall have general supervision of the prevention of the spread and suppression of infectious, contagious, and communicable diseases and pests affecting food fish or shellfish, and shall have the power to prohibit the transportation or transplanting within the state from without, or from one area to another within the state, or the transportation from points in this state to points outside the state of any food fish or shellfish, or any material, organism, boats, scows, gear, or other equipment whatsoever which in his judgment may transmit any infectious or contagious disease or pests communicable to any food fish or shellfish.

The director shall have the power to make and enforce rules and regulations to prevent the spread, and effect the suppression of all infectious, contagious, dangerous, and communicable diseases and pests affecting food fish or shellfish.

**75.16.040 Destruction of seals, sea lions, and other fish predators.**

The director shall cause his employees and hunters employed for the purpose, to kill and destroy seals and sea lions and other fish predators in the waters of the state and the offshore waters. He may expend such moneys as may from time to time be appropriated by the legislature for such purposes including, but not limited to purchase of firearms, ammunition, dynamite, and other materials necessary to carry out the purposes hereof. He shall keep as nearly as possible an accurate record of the number of seals and sea lions that are so destroyed.

Any person other than an employee of the department killing or causing to be killed in the waters of the state, any common seal or sea lion shall be entitled to receive a bounty of not less than

three dollars nor more than ten dollars, the amount to be designated by the director, from any moneys which may be appropriated by the legislature for the purposes of this section.

All moneys appropriated for such purposes by the legislature shall be expended under the direction of and upon vouchers approved by the director, who shall adopt rules and regulations providing for the proof of such killing and the surrender and destruction of the scalp, snout, or tail of such seal or sea lion. Any person who shall receive, or attempt to receive, any bounty for the killing of any common seal or sea lion not taken in the waters of the state of Washington is guilty of a gross misdemeanor and shall pay a fine of not less than two hundred and fifty dollars.

**75.16.050 Acceptance of funds or property—Disbursement of funds.** The director may accept money or real property from the United States, counties, municipalities, or other governmental units, or from any person, under conditions requiring the use of such property or money for specific purposes in furtherance of the protection, rehabilitation, preservation, or conservation of the state food fish and shellfish resources, or with the advice of the attorney general, in settlement of any claim for damages to such food fish and shellfish resources. Any real property so accepted must be useful for the protection, rehabilitation, preservation, or conservation of such fisheries resources.

The director is hereby designated the agent of the state to accept and receive all such funds and deposit them with the state treasurer who shall credit them to the contingent receipts fund created by RCW 43.79.250.

Whenever any money has been received and is to be spent for a specific purpose, the director shall submit to the governor duplicate copies of a statement setting forth the facts regarding such funds and the need for such expenditure and the estimated amount to be expended.

If the governor approves such estimate in whole or in part, he shall endorse on each copy of such statement his approval, with the amount approved, and transmit one copy of the same to the director authorizing him to make the expenditure. No expenditure shall be authorized in excess of the actual amount received, nor shall funds be expended for any purpose except the specific purpose for which they were received, unless the same were received in settlement of a claim for damages to the food fish or shellfish resources of the state, and in that event such funds so received may be expended for the protection, rehabilitation, preservation, or conservation of such resources.

**75.16.060 Fish stations, laboratories—Agreements with United States, etc.** (1) Consent of the state is hereby given to the United

States for the continuance of present established fish cultural stations and laboratories located in this state as of April 1, 1949; for the establishment of one or more additional fish cultural stations, substations or laboratories to be constructed, maintained, and operated by the United States or the state, under the terms of agreements to be entered into between the United States and the director and the state game commission: *Provided*, That this consent shall be effective as to additional establishments only when the location of such additional establishments has been approved in advance by the director and the state game commission. The Secretary of the Interior, and his duly authorized agents are hereby accorded the right to conduct scientific investigations, fish hatching and fish cultural stations and all operations connected therewith at any and all times and in any manner that may by the Secretary be considered necessary and proper, in accordance with the provisions of certain acts of congress entitled: "An Act to provide for a five-year construction and maintenance program for the United States Bureau of Fisheries," approved May 21, 1930, and the provisions of the act of May 11, 1938 (Ch. 193, 52 Stat. 354, 16 U. S. C. 755-757), as amended by "An Act to amend the Act of May 11, 1938, for the conservation of the Fishery Resources of the Columbia River, and for other purposes," approved August 8, 1946, or acts amendatory thereof, at presently established stations and laboratories and at additional establishments when approval of the location of any such additional establishment has been given as provided in this section.

(2) The director and the state game commission are hereby authorized to enter into agreements with the United States for the construction and installation of fish cultural stations, laboratories, and devices in the Columbia River basin for improvement of feeding and spawning conditions for fish, for the protection of migratory fish from irrigation projects and for facilitating free migration of fish over obstructions, in accordance with the act of congress of May 11, 1938 (Ch. 193, 52 Stat. 354, 16 U. S. C. 755-757), as amended by "An Act to amend the Act of May 11, 1938, for the conservation of the Fishery Resources of the Columbia River, and for other purposes," approved August 8, 1946, or acts amendatory thereof.

(3) The director and the state game commission may acquire by gift, purchase, lease, easement, or condemnation the necessary title to, interest therein, rights of way over or licenses covering the use of lands where such construction or improvement is to be carried on by the United States.

(4) The director and the state game commission are hereby authorized to receive funds from the federal government for the construction, maintenance and operation of fish cultural stations,

substations, laboratory or fish conservation devices or for any other purpose deemed necessary by the director or the state game commission for the rehabilitation and conservation of the fisheries resources of the Columbia River basin.

(5) After the construction and installation of any such fish cultural station, substation, laboratory or fish conservation devices, the department or the state game commission may maintain and operate the same in accordance with the terms of the agreement entered into with the United States in regard thereto.

**75.16.070 Contracts and agreements as to fish or shellfish propagation.** The director shall have the power to enter into contracts and agreements with the United States, or any state or territory thereof, or with any foreign government, or with any person, for the purpose of securing food fish or shellfish or eggs of the same, and for the erection and maintenance of eyeing stations, fish or shellfish hatcheries, rearing ponds, and other appliances or installations for the propagation of fish or shellfish within or without the territorial limits of the state; and the director shall execute and carry out any such contracts or agreements.

## Chapter 75.18

### PRESERVATION OF SALMON RESOURCES

**75.18.005 Preamble.** The state of Washington has a major and substantial interest in the fisheries and fishing industry within its boundaries and a special interest in its salmon resources. Salmon within the waters of the state, including its coastal waters and offshore waters contiguous thereto, constitute a commercial asset and a vital food resource in which the state of Washington has a special interest, in that such salmon spawn in the fresh water streams of the state of Washington, migrate to the sea and, in response to their anadromous cycle, return to the fresh water streams of Washington, from which they originate, to spawn and die. Serious conditions and hazards detrimental to the preservation of this salmon supply have arisen and are now present, both in the fresh water streams of the state of Washington and in the salt waters of bays, inlets, canals, coves, sounds and estuaries, and in its coastal waters and offshore waters contiguous thereto, as a result of the extensive catching and taking of silver and chinook salmon within the described waters in such quantities as substantially to deplete the spawning and the source of existing and future salmon supplies and resources.

The preservation of the salmon industry and the salmon resources of the state of Washington is vital to the state's economy, and effective measures and remedies are necessary to prevent loss

of such salmon resources due to the taking of immature fish and salmon present in the state's coastal and offshore waters, from which waters such salmon migrate, feed and return to the streams of this state to spawn.

It has proven impossible in seeking to regulate catching and taking of such salmon to distinguish between salmon taken from waters of the Pacific Ocean over which the state has jurisdiction and those taken outside the limits of the state's jurisdiction and brought within the boundaries of the state.

Research by the department of fisheries of the state has established that silver and chinook salmon found in the waters of district No. 2 and the Columbia River district, as herein defined, are substantially mature salmon. The silver and chinook salmon found during certain periods within the waters of district No. 1, herein defined, are for the most part immature salmon, the taking of which would prevent the return of an adequate number of such salmon to the spawning grounds in the streams of the state and risk the destruction or substantial depletion of the state's salmon resources, and would constitute an irreparable economic waste.

**75.18.010 Fishery districts created.** The following fishery districts are hereby created:

(1) District No. 1, as used in this chapter, shall include the Straits of Juan de Fuca, and the waters of the Pacific Ocean over which the state of Washington has jurisdiction, exclusive of bays, inlets, canals, coves, sounds and estuaries.

(2) District No. 2, as used in this chapter, shall include all lands and waters over which the state of Washington has jurisdiction, excepting therefrom district No. 1, as herein defined.

**75.18.020 Commercial fishing—Silver salmon—District No. 1.** It shall be unlawful for commercial purposes to fish for or take in the waters of district No. 1, as herein defined, silver salmon (*Oncorhynchus kisutch*) between the first day of November and the fifteenth day of June of the year following, both dates inclusive.

**75.18.030 Commercial fishing—Chinook salmon—District No. 1.** It shall be unlawful for commercial purposes to fish for or take in the waters of district No. 1, as herein defined, chinook salmon (*Oncorhynchus tshawytscha*) between the first day of November and the fourteenth day of March of the year following, both dates inclusive.

**75.18.040 Possession, transportation of silver salmon—District No. 1.** It shall be unlawful for commercial purposes for any person to have in his possession or transport through the waters of district No. 1, as herein defined, any fresh silver salmon (*Oncorhynchus kisutch*) taken from said waters or from the waters of the Pacific

Ocean during the period from the first day of November and the fifteenth day of June of the year following, both dates inclusive.

**75.18.050 Possession, transportation of chinook salmon—District No. 1, Pacific Ocean.** It shall be unlawful for commercial purposes for any person to have in his possession or transport through the waters of district No. 1, as herein defined, any fresh chinook salmon (*Oncorhynchus tshawytscha*) taken from said waters or from the waters of the Pacific Ocean during the period from the first day of November and the fourteenth day of March of the year following, both dates inclusive.

**75.18.060 Processors, wholesalers, etc.—Possession of silver salmon—District No. 1, Pacific Ocean.** It shall be unlawful for any person in the state of Washington engaged in the business of canning, packing, processing, freezing, salting, smoking, kippering, preserving in ice, or otherwise involved in dealing in or curing any food fish or shellfish, or in wholesale selling of food fish or shellfish for commercial purposes, to have in his possession any silver salmon (*Oncorhynchus kisutch*) caught or taken during the period from the first day of November of any year to the fifteenth day of June of the following year from the waters of the Pacific Ocean or district No. 1.

**75.18.070 Same, chinook salmon. Closed season dates, director may vary—Notice, hearing.** It shall be unlawful for any person in the state of Washington engaged in the business of canning, packing, processing, freezing, salting, smoking, kippering, preserving in ice, or otherwise involved in dealing in or curing any food fish or shellfish, or in wholesale selling of food fish or shellfish for commercial purposes, to have in his possession any chinook salmon (*Oncorhynchus tshawytscha*) caught or taken during the period from the first day of November of any year to the fourteenth day of March of the following year from the waters of the Pacific Ocean or district No. 1: *Provided*, That with respect to the closed seasons defined in this chapter, the director of fisheries, upon due notice and hearing, and upon investigation, may, in accordance with his judgment, vary any of the opening or closing dates thereof. Notice of such hearing shall appear in not less than two issues of a newspaper of general circulation at the state capital.

**75.18.080 Commercial taking, transporting, delivery of chinook or silver salmon—Permits—Fees—Revocation.** Every person or persons, firm or corporation operating a fishing vessel of any description used in the commercial taking or catching of chinook or silver salmon in offshore waters and the transporting or bringing the same in and through the waters of the state of Washington and delivering the same in any place or port in the state of Washington shall, as a condition of doing so, obtain a permit from the

director of fisheries. The fee for said permit shall be ten dollars for the vessel and ten dollars for each member of the crew thereof, such permit to be effective during the fiscal year in which issued: *Provided*, That persons operating fishing vessels licensed under RCW 75.28.080 and 75.28.100 shall not be required to pay any permit fees hereunder: *Provided further*, That if it appears to the director of fisheries, after investigation, that the operation of such vessel under such permit tends to result in the impairment, depletion, or destruction of the salmon resource and supply of this state and in bringing into this state salmon products prohibited by law, in that event, the director under such regulations and terms as he may prescribe may revoke said permit to use and operate such boat in the waters of this state, and in the event of the revocation of such permit, the further operation of such vessel as hereinabove set forth shall then be unlawful.

**75.18.090 Construction.** Nothing in this chapter shall be construed to restrict or impair the authority of the director of fisheries consistent with and pursuant to the provisions of this chapter from issuing and publishing such regulations as, after investigation, he may deem necessary to administer this chapter and to effectuate its purposes, or to administer and effectuate all other acts governing or affecting the department of fisheries, nor shall anything herein be construed to restrict or impair the authority of the director to issue and publish regulations he may find necessary under the provisions of The Pacific Marine Fisheries Compact.

## Chapter 75.20

### RESTRICTIONS AS TO DAMS, DITCHES, AND OTHER USES OF WATERS AND WATERWAYS

**75.20.010 Columbia River fish sanctuary — Established.** All streams and rivers tributary to the Columbia River downstream from McNary Dam are hereby reserved as an anadromous fish sanctuary against undue industrial encroachment for the preservation and development of the food and game fish resources of said river system and to that end there shall not be constructed thereon any dam of a height greater than twenty-five feet that may be located within the migration range of any anadromous fish as jointly determined by the director of fisheries and the director of game, nor shall waters of the Cowlitz River or its tributaries or of the other streams within the sanctuary area be diverted for any purpose other than fisheries in such quantities that will reduce the respective stream flows below the annual average low flow, as delineated in existing or future United States Geological Survey reports: *Provided*, That when the flow of any of the streams re-

ferred to in this section is below the annual average, as delineated in existing or future United States Geological Survey reports, water may be diverted for use, subject to legal appropriation, upon the concurrent order of the director of fisheries and director of game.

**75.20.020 Columbia River fish sanctuary—Acquisition and abatement of dams—Water rights—Condemnation actions.** The director of fisheries and the director of game, shall acquire and abate any dam or other obstruction, or acquire any water right which may have become vested on any streams or rivers tributary to the Columbia River downstream from McNary Dam which may be in conflict with the provisions of RCW 75.20.010. Any condemnation action necessary under the provisions of this section shall be instituted under the provisions of chapter 120, Laws of 1947, and in the manner provided for the acquisition of property for public use of the state.

**75.20.030 Columbia River fish sanctuary — Rivers not included in sanctuary.** The provisions of RCW 75.20.010 and 75.20.020 shall not apply to the waters of the North Fork of the Lewis River, nor the White Salmon River (Big White Salmon River).

**75.20.040 Fish guards required—Penalty for failure.** Every ditch, channel, canal or waterpipe used for conducting water from any lake, river or stream, for irrigation, manufacturing, domestic or other purposes, shall be provided at its entrance or intake with a fish guard so as to prevent the passage of fish into such ditch, channel or waterpipe and subject to the approval of the director, which shall be constantly maintained at all times when water is taken or admitted into such ditch, channel, canal, or waterpipe: *Provided*, That such fish guards and screens shall be installed at such places and times as shall be prescribed by the director upon thirty days' notice to the owner or owners of any such water conduit. Every owner, manager, agent or person in charge of such ditch, channel, canal, or waterpipe who shall fail to comply with the provisions of this section is guilty of a gross misdemeanor.

Each day the end of the ditch, channel, canal or waterpipe is not equipped with this covering as provided shall constitute a separate offense. If within thirty days after notice to equip any such ditch, channel, canal, or waterpipe such person shall fail to do so, the director is hereby authorized to take possession of the same in the name of the state of Washington, and to close the same to the entrance of any water until such time as the ditch shall be properly equipped, and the expense incident thereto shall constitute a lien upon the ditch, channel, canal, or waterpipe and upon the real and personal property of the person owning the same. Notice of such lien shall be filed and recorded in the office of the county auditor in the county in which such action is taken.

**75.20.050 Water flow to be maintained—May refuse permit to divert water.** It is hereby declared to be the policy of this state that a flow of water sufficient to support game fish and food fish populations be maintained at all times in the streams of this state.

The supervisor of hydraulics shall give the director of fisheries and the director of game notice of each application for a permit to divert water, or other hydraulic permit of any nature, and the director of fisheries and director of game shall have thirty days after receiving such notice in which to state their objections to the application, and the permit shall not be issued until such thirty days period has elapsed.

The supervisor of hydraulics may refuse to issue any permit to divert water, or any hydraulic permit of any nature, if, in the opinion of the director of fisheries or director of game, such permit might result in lowering the flow of water in any stream below the flow necessary to adequately support food fish and game fish populations in the stream.

The provisions of this section shall in no way affect existing water rights.

**75.20.060 Fishways required in dams, obstructions—Remedies for failure.** Every dam or other obstruction across or in any stream shall be provided with a durable and efficient fishway, which shall be maintained in a practical and effective condition in such place, form and capacity as the director may approve, for which plans and specification shall be furnished by the director upon application to him, and which shall be kept open, unobstructed and supplied with a sufficient quantity of water to freely admit the passage of fish through the same. Every owner, manager, agent or person in charge of such dam or obstruction who shall fail to comply with the provisions of this section is guilty of a gross misdemeanor.

If any person or government agency fails to construct and maintain such fish ladder or fishway or to remove such dam or obstruction in a manner satisfactory to the director, then within thirty days after written notice thereof has been served upon the owner, his agent, or the person in charge thereof, the director may construct a suitable fish ladder or fishway, or remove such dam or obstruction, and the actual cost in case of construction of fishway thereof shall constitute a lien upon the dam and upon all the personal property of the person or government agency owning the same. Notice of such lien shall be filed and recorded in the office of the county auditor of the county in which such dam or obstruction is situated. Such lien may be foreclosed in any action brought in the name of the state.

If any person or government agency fails to make any such fishway or remove such dam or obstruction in a manner satisfactory to the director, then within thirty days after written notice thereof has been served on the owner, his agent, or the person in charge, such dam or obstruction shall thereby become a public nuisance and the director may take possession thereof in his own name or in the name of the state and destroy it and no liability shall attach for such destruction.

**75.20.070 Unlawful to fish in or interfere with fishways, screens, etc.** It shall be unlawful for any person to fish for, take, injure, kill, or molest any fish in any fishway or fish ladder, fish screens, or other protective devices, or to interfere in any manner whatsoever with the proper operation of any fishway, fish ladder, fish screens, or other protective devices.

**75.20.080 Unlawful to interfere with or damage fish ladders, guards, etc., or fish traps.** It shall be unlawful for any person to break open, open, unlock, damage, interfere with, injure, or destroy any fish ladder, fish guard, screen, fish stop, fish protective device, bypass, or part thereof, or any fish trap operated by the department.

**75.20.090 If fishway is impractical, fish hatcheries may be provided in lieu.** In the event that any person or government agency desires to construct or maintain a dam or other hydraulic work in any of the streams of this state of a type making a fish ladder or fishway thereover impracticable, in the opinion of the director, then such person or government agency, before any construction work shall commence on such dam or other hydraulic work shall at the option of the director (1) convey to the state a site or sites of a size and dimensions satisfactory to the director, at such place as may be selected by the director, and erect thereon a fish hatchery or fish hatcheries, rearing ponds and other buildings according to plans and specifications to be furnished by said person or government agency subject to the approval of the director and enter into an agreement with director secured by good and sufficient bond, to furnish all water and lights, without expense, and necessary sums of money to operate and maintain said hatchery or hatcheries and rearing ponds or (2) enter into an agreement with the director secured by good and sufficient bond to pay to the state such initial money and make such annual payments of additional money to the state as the director may determine are necessary to expand, maintain, and operate additional facilities at existing hatcheries within a reasonable distance of such dam or other hydraulic work to compensate for the damages sustained by the erection of any such dam or other hydraulic work. Any decision of the director hereunder shall be subject to review in the superior court of the state for Thurston county.

Any person or government agency who fails to comply with the provisions of this section is guilty of a gross misdemeanor and each day that such person or government agency carries on construction work on such dam or hydraulic work or operates any such dam or hydraulic work without complying with the provisions of this section constitutes a separate offense.

**75.20.100 Hydraulic projects—Plans must be approved.** In the event that any person or government agency desires to construct any form of hydraulic project or other project that will use, divert, obstruct, or change the natural flow or bed of any river or stream or that will utilize any of the waters of the state or materials from the stream beds, such person or government agency shall submit to the department of fisheries and the department of game full plans and specifications of the proposed construction or work, complete plans and specifications for the proper protection of fish life in connection therewith, the approximate date when such construction or work is to commence, and shall secure the written approval of the director of fisheries and the director of game as to the adequacy of the means outlined for the protection of fish life in connection therewith and as to the propriety of the proposed construction or work and time thereof in relation to fish life, before commencing construction or work thereon. If any person or government agency commences construction on any such works or projects without first providing plans and specifications subject to the approval of the director of fisheries and the director of game for the proper protection of fish life in connection therewith and without first having obtained written approval of the director of fisheries and the director of game as to the adequacy of such plans and specifications submitted for the protection of fish life, he is guilty of a gross misdemeanor. If any such person or government agency be convicted of violating any of the provisions of this section and continues construction on any such works or projects without fully complying with the provisions hereof, such works or projects are hereby declared a public nuisance and shall be subject to abatement as such.

*Provided,* That in case of an emergency arising from weather or stream flow conditions the department of fisheries or department of game, through their authorized representatives, shall issue oral permits to a riparian owner for removing any obstructions or for repairing existing structures without the necessity of submitting prepared plans and specifications.

**Chapter 75.24****SHELLFISH**

**75.24.010 Oyster reserves established.** The following named areas constitute the existing oyster reserves of the state, such reserves being more completely described in maps and plats on file in the office of the commissioner of public lands and in the office of the auditor of the county in which the reserve is located:

**1. PUGET SOUND OYSTER RESERVES:**

- (a) Totten Inlet reserves (sometimes known as Oyster Bay reserves), located in Totten Inlet, Thurston county;
- (b) Eld Inlet reserves (sometimes known as Mud Bay reserves), located in Mud Bay, Thurston county;
- (c) Oakland Bay reserves, located in Oakland Bay, Mason county;
- (d) North Bay reserves (sometimes known as Case Inlet reserves), located in Case Inlet, Mason county.

**2. WILLAPA HARBOR OYSTER RESERVES:**

- (a) Nemah reserve, south and west sides of reserve located along Nemah River channel, Pacific county;
- (b) Long Island reserve, located at south end and along west side of Long Island, Willapa Harbor, Pacific county;
- (c) Long Island Slough reserve, located at south end and along east side of Long Island, Willapa Harbor, Pacific county;
- (d) Bay Center reserve, located in the Palix River channel, extending from Palix River bridge to beyond Bay Center to north of Goose Point, Willapa Harbor, Pacific county;
- (e) Willapa River reserve, located in the Willapa River channel extending west and up-river from a point approximately one-quarter mile from the blinker light marking the division of Willapa River channel and the North River channel, Willapa Harbor, Pacific county.

**75.24.020 Oyster reserve boundaries marked.** As soon as an appropriation is made therefor, the director shall erect monuments, establishing the boundaries of the several oyster reserves in the state.

**75.24.030 Sale, lease, disposal of oyster reserves.** The oyster reserves of the state shall not be sold, leased, or otherwise disposed of: *Provided*, That in event the director recommends the sale, lease, or disposal of any of the reserves, or parts thereof, the same may be sold, leased or disposed of by the land commissioner in the manner provided by law for the sale, lease, or disposal of state land.

**75.24.040 Taking shellfish from oyster reserves.** It shall be unlawful to take shellfish from the oyster reserves of the state except as authorized by the director.

**75.24.050 Taking shellfish contrary to law or orders—Penalty—Confiscation of property.** If any person takes oysters or clams from any of the state oyster reserves or any tideland under the jurisdiction of the state of Washington, contrary to statutes or orders of the director, or goes upon said oyster or clam land and rakes up, or otherwise prepares oysters or clams to facilitate the taking of same, he is guilty of a gross misdemeanor, and any oyster or clam taking appliance such as boats, dredges, motor vehicles or other appliances used in violation of such statutes or any of such orders may be seized by the director and shall be confiscated by the state.

**75.24.060 Reserves to be productive, self-maintaining—Furnish shellfish stock—Development.** It is hereby declared to be the policy of the state to improve the oyster reserves of the state to the end that all may finally become productive, and to have these reserves yield a revenue sufficient for their maintenance and betterment. In fixing the price at which oysters and other shellfish shall be sold from the reserves, the director shall take into consideration such policy. It is further declared to be the policy of the state to maintain the oyster reserves for the purpose of furnishing a supply of shellfish to growers and processors and for the stocking of public beaches.

The director shall protect all reserves, reseed, replant, issue cultch permits and do such other things as in his judgment are necessary for their care and protection.

**75.24.070 Sale of shellfish from reserves.** The director shall have the power to determine whether oysters and other shellfish from the oyster reserves of the state shall be sold by the bushel at a price set by the director or whether certain quantities or all of such oysters and other shellfish should be sold for cash at public auction or by sealed bids in such amounts as the director shall from time to time determine.

To maintain the permanency of local communities and industries, the prospects of fulfillment of contract requirement, and to restrain monopolistic controls endangering competition in the industry, the director shall have the power to determine the number of bushels which shall be sold to any person, firm, or corporation; and when sold at public auction, the right to reject any and all bids.

The director shall have the power to determine the time, place, and manner of holding the auctions and sales provided for in this section.

**75.24.080 Infested shellfish areas—Designation—Restrictions.** The director shall have the power to determine and designate

areas in which infection or infestation of shellfish is present. These shall be called "restricted shellfish areas." No person shall transplant any shellfish within such restricted areas nor transport any shellfish, or any material, or organism, or boats, scows, or other equipment used in taking, handling, or processing shellfish into or out of such restricted areas without first having obtained a permit from the director.

**75.24.090 Culled shellfish must be returned to beds—Penalty.**

It shall be unlawful for any person to destroy oysters or clams taken from their natural beds, by assorting or culling them on land or shore and leaving the culled oysters or clams there to die; but in all cases the culled oysters or clams must be returned to their natural beds, or to the private beds for cultivation; and if any person offends against the provisions of this section, or in any way wantonly destroys the oysters or clams, he is guilty of a gross misdemeanor.

This section amended by sec. 7, chap. 212, Laws of 1955.

## Chapter 75.28

### LICENSES

**75.28.010 License required.** It shall be unlawful for any person to engage in any phase of the fishing industry, or to operate any fishing gear known as or classified as commercial fishing gear by the director, or to fish for, take, deliver, or land any fish in the state, whether taken from waters within or without the jurisdiction of the state, without first obtaining and having in possession such licenses as are herein specified.

Any person violating any of the provisions of this chapter is guilty of a gross misdemeanor and upon conviction thereof shall be fined not less than twenty-five dollars.

**75.28.020 Qualifications for license—Oregon licenses recognized in concurrent waters.** No license provided for in this title shall be issued to any person who is not a citizen of the United States, or who is not a bona fide resident of the United States, or who is not of the age of sixteen years or over; nor shall any license be issued to any corporation unless it is authorized to do business in this state: *Provided*, That all gear licenses, personal licenses and boat licenses issued by the state of Oregon shall be recognized by this state as valid in the concurrent waters of the Columbia River.

**75.28.030 Application for license—Remittance of fees.** The director shall issue licenses herein required to any qualified person, upon the receipt of a lawful application therefor upon a blank to be furnished for that purpose, accompanied by the required fee. Applicants for fishing gear licenses shall indicate at the time of application the species of food fish or shellfish that they intend to

take with said gear. The director shall make weekly remittances of the fees collected to the state treasurer.

**75.28.040 Expiration and renewal of licenses.** All licenses shall expire at the close of the thirty-first day of March following their issuance, and shall be renewed annually thereafter upon application and payment of license fees required by this title.

This section amended by sec. 2, chap. 212, Laws of 1955.

**75.28.050 Compensation fee to person issuing license.** Any person deputized by the director to issue fishing licenses may charge the sum of twenty-five cents in addition to collecting the fee prescribed by law, for issuing each such license, which shall be retained by him for his services.

**75.28.060 Licenses nontransferable—Must be carried—Nonresident gear.** All fishing gear licenses issued under the provisions of this title shall be nontransferable, and it shall be unlawful for any gear which is licensed as herein specified to be operated or caused to be operated by any person other than the licensee or an agent or employee of the licensee. In the event the gear is operated by a nonresident, the gear shall be required to be licensed as nonresident gear and the fees provided for nonresidents shall be paid for such license. All licenses for fishing gear issued under the provisions of the fisheries code shall be carried in the possession of the licensee or authorized representative of the licensee who shall be in charge of the operation of such gear.

This section amended by sec. 3, chap. 212, Laws of 1955.

**75.28.070 Carrying or display of certain other licenses.** Fishing guide licenses, fish buyer licenses, and personal commercial fishing licenses shall be carried on the person of the licensee. Fish broker licenses, clam or oyster farm licenses, oyster reserve licenses, wholesale fish dealer licenses, retail fish dealer licenses, fish canning licenses, fish byproducts licenses, boat house operator licenses, and branch licenses shall be kept and displayed at the business premises of the licensee.

**75.28.080 Personal commercial fishing license.** A personal commercial fishing license shall be obtained by each and every person who takes or assists in taking any fish or shellfish, except razor and hard shell clams, from the waters or beaches of the state for commercial purposes.

The fee for such license is ten dollars per annum.

The personal license shall be carried on the person whenever such person is engaged in the taking, landing, or selling of any fish or shellfish: *Provided*, That this section does not apply to those persons engaged solely as employees of any person holding a valid oyster or clam farm license.

**75.28.090 Fishing guide license.** A fishing guide license shall be obtained by every person acting as a professional guide for hire

for others in the taking of food fish or shellfish from the waters or beaches of the state. The fee for such license is fifteen dollars per annum for residents of the state and seventy-five dollars per annum for nonresidents.

This section amended by sec. 4, chap. 212, Laws of 1955.

**75.28.100 Commercial fishing vessel license.** A license is required for each and every commercial vessel which delivers or lands fish or shellfish within the state, for which license there shall be paid a fee of ten dollars per annum: *Provided*, That nothing in this section shall apply to vessels operated by any person having an oyster or clam farmer's license and used exclusively for that purpose.

Each annual application for a commercial fishing vessel license shall contain the name and address of the owner of the vessel, the name and address of the operator of the vessel, the name and number of the vessel, a description of the vessel and fishing gear to be carried thereon, and such information as may be required by the department.

At the time of issuance of such license the director shall furnish each applicant with a certificate of registration and two license plates with the registration number stamped thereon. Such registration shall be known as the "State of Washington license and registration number" and shall not be transferable. The registration certificate shall be carried aboard the vessel at all times and the license plates shall be affixed and carried in plain sight on each side of the vessel well forward.

The license provided for herein shall be invalid in the event the vessel is operated by anyone other than the operator listed in the annual application. In the event of change of name, ownership or operator of the vessel, the director shall be notified in writing and will issue a new certificate of registration which will reflect the change of name or ownership or operator, as the case may be. A fee of one dollar shall be charged for the new certificate of registration.

Registrants shall report immediately any change of name, ownership, or operator of the vessel. Defaced, mutilated, or lost license plates shall be replaced immediately and a fee of two dollars shall be charged for such new plates.

**75.28.110 Hand line or jigger license.** A license is required for hand lines or jiggers used in the taking or catching of food fish for commercial purposes in the waters of the state for which license there shall be paid a fee of seven dollars and fifty cents per annum by residents and thirty-seven dollars and fifty cents per annum by nonresidents: *Provided*, That not more than three hooks shall be attached to any one hand line or jigger used for commercial pur-

poses. Each license shall entitle the licensee to use two or less hand lines or jiggers.

**75.28.120 Set line license.** A license is required for each set line used in the taking or catching of food fish for commercial purposes in the waters of the state, for which license there shall be paid a fee of fifteen dollars per annum by residents and seventy-five dollars per annum by nonresidents: *Provided*, That not more than five hundred hooks may be attached to any one set line.

**75.28.130 Troll line license.** A license is required for troll lines used in the taking or catching of food fish for commercial purposes in the waters of the state, for which license there shall be paid a fee of seven dollars and fifty cents per annum by residents and thirty-seven dollars and fifty cents per annum by nonresidents. Each license shall entitle the licensee to use six or less troll lines.

**75.28.140 Gill net or pole net license.** A license is required for each and every gill net or pole net used in the taking or catching of food fish in the waters of the state, for which license there shall be paid a fee of fifteen dollars per annum by residents and seventy-five dollars per annum by nonresidents.

**75.28.150 Set net license.** A license is required for each three hundred fathoms or less of set nets used in the taking or catching of food fish in the waters of the state, for which license there shall be paid a fee of fifteen dollars per annum by residents and seventy-five dollars per annum by nonresidents.

**75.28.160 Dip bag net license.** A license is required for each and every dip bag net used in the taking or catching of food fish for commercial purposes in the waters of the state, for which license there shall be paid a fee of seven dollars and fifty cents per annum by residents and thirty-seven dollars and fifty cents per annum by nonresidents.

**75.28.170 Drag seine license.** A license is required for each and every drag seine, beach seine, or drag bag seine used in the taking or catching of food fish or shellfish in the waters of the state, for which license there shall be paid a fee of fifteen dollars per annum by residents and seventy-five dollars per annum by nonresidents: *Provided*, That there shall be paid an additional fee of three cents by residents and fifteen cents by nonresidents for each foot by which any such seine exceeds three hundred feet in length.

**75.28.180 Lampara net license.** A license is required for each and every lampara or round haul net used in the taking or catching of food fish or shellfish in the waters of the state, for which license there shall be paid a fee of thirty-seven dollars and fifty cents per annum.

**75.28.190 Purse seine license.** A license is required for each and every purse seine used in the taking or catching of food fish in the waters of the state, for which license there shall be paid a fee of seventy-five dollars per annum.

**75.28.195 Reel purse seine, drum purse seine, license.** A license is required for each and every reel purse seine or drum purse seine used in the taking or catching of salmon in the waters of the state for which license there shall be paid a fee of seventy-five dollars.

**75.28.200 Beam trawl license.** A license is required for each and every beam trawl used in the taking or catching of food fish or shellfish in the waters of the state, for which license there shall be paid a fee of thirty-seven dollars and fifty cents per annum by residents and one hundred eighty-seven dollars and fifty cents per annum by nonresidents.

**75.28.210 Otter trawl license.** A license is required for each and every otter trawl used in the taking or catching of food fish or shellfish in the waters of the state for which license there shall be paid a fee of thirty-seven dollars and fifty cents per annum by residents and one hundred eighty-seven dollars and fifty cents per annum by nonresidents.

**75.28.220 Reef net license.** A license is required for each and every reef net used in the taking or catching of food fish in the waters of the state, for which license there shall be paid a fee of twenty-two dollars and fifty cents per annum by residents and one hundred twelve dollars and fifty cents per annum by nonresidents.

**75.28.230 Fyke net license.** A license is required for each and every fyke net used in the taking or catching of food fish or shellfish in the waters of the state, for which license there shall be paid a fee of fifteen dollars per annum by residents and seventy-five dollars per annum by nonresidents.

**75.28.240 Brush weir license.** A license is required for each and every brush weir used in the taking or catching of food fish in the waters of the state, for which license there shall be paid a fee of seventy-five dollars per annum by residents and three hundred and seventy-five dollars per annum by nonresidents.

**75.28.250 Ring net license.** A license is required for ring nets used in the taking of or fishing for food fish or shellfish within the state.

For a license for twenty-five ring nets or less there shall be paid a fee of seven dollars and fifty cents per annum by residents and thirty-seven dollars and fifty cents per annum by nonresidents, and for each ring net in excess of twenty-five there shall be paid an additional fee of ten cents per annum by residents and one dollar and twenty-five cents by nonresidents.

**75.28.260 Bottom fish pots license.** A license is required for bottom fish pots used in the taking of or fishing for food fish within the state.

For a license for one hundred bottom fish pots or less there shall be paid a fee of fifteen dollars per annum by residents and seventy-five dollars per annum by nonresidents, and for each bottom fish pot in excess of one hundred there shall be paid an additional fee of ten cents per annum by residents and fifty cents by nonresidents.

**75.28.270 Shellfish pots license.** A license is required for shellfish pots used in the taking of or fishing for shellfish within the state.

For a license for one hundred shellfish pots or less there shall be paid a fee of fifteen dollars per annum by residents and seventy-five dollars per annum by nonresidents, and for each shellfish pot in excess of one hundred there shall be paid an additional fee of ten cents per annum by residents and fifty cents by nonresidents.

**75.28.280 Clam or oyster farm license.** A license is required for each and every clam or oyster farm being operated for commercial purposes on privately owned or leased tidelands in the state, for which license there shall be paid a fee of fifteen dollars per annum.

This section amended by sec. 8, chap. 212, Laws of 1955.

**75.28.285 Clam digger's license.** A clam digger's license shall be required of any person digging clams for commercial purposes from the waters or beaches of this state, and the fee for such license shall be five dollars per annum for hard shell clams, and five dollars per season, as defined by the director of fisheries, for razor clams: *Provided*, That such license shall not be required for licensed clam farmers or their agents or employees who dig only on licensed clam farms.

**75.28.290 Oyster reserve license.** An oyster reserve license is required of any person taking shellfish from the reserves of this state. The fee for such license is fifteen dollars per annum.

**75.28.300 Wholesale fish dealer's license.** A wholesale fish dealer's license is required for any business in the state engaged in the freezing, salting, smoking, kippering, preserving in ice or otherwise involving the dealing in or curing of any food fish or shellfish or any wholesale selling of food fish and shellfish, and for any fisherman selling his catch direct to retail fish dealers. The fee for said license is thirty-seven dollars and fifty cents per annum.

This section amended by sec. 11, chap. 212, Laws of 1955.

**75.28.310 Retail fish dealer's license.** A retail fish dealer's license is required for any business in the state engaged in the selling of fresh, frozen, or cured food fish or shellfish directly to the consumer whether or not such business involves the taking or catching of such food fish or shellfish, and the fee for said license is five dollars per annum for the principal place of business of such retail fish dealer, and five dollars per annum for each branch retail

operation or business of such retail fish dealer: *Provided*, That this section shall not apply to businesses primarily engaged in serving food fish or shellfish for consumption on the business premises.

**75.28.320 Fish canner's license.** A fish canning license is required for any business in the state engaged in the canning of food fish and shellfish, for commercial purposes, in hermetically sealed containers which are processed by exposure to heat for pasteurization or sterilization, and the fee for said license is thirty-seven dollars and fifty cents per annum.

**75.28.325 Custom canning license—Container markings—Commingling prohibited.** A person engaged in canning for hire shellfish or food fish taken by others for their personal use is engaged in the business of custom canning for personal use and shall pay a license fee of thirty-seven dollars and fifty cents per annum: *Provided*, That each and every can or container used in canning or perserving personal use caught fish or shellfish have been embossed in a permanent and legible manner on the lid or cover thereof the words "Personal Use Only—Not for Sale." It shall be unlawful to commingle personal use caught fish or shellfish at any time prior to or during the period of canning or processing.

**75.28.330 Fish byproducts license.** A fish byproducts license is required for any business in the state engaged in the manufacture or preparation for commercial purposes of fertilizer, oil, meal, caviar, fish bait, or other byproducts from fish or shellfish and the fee for said license is thirty-seven dollars and fifty cents per annum.

**75.28.350 Fish buyer's license.** A fish buyer's license shall be obtained by every wholesaler, canner, byproducts manufacturer, or broker for each and every fish buyer engaged as a representative in the state for such wholesaler, canner, byproducts manufacturer or broker, and the fee for said license is seven dollars and fifty cents per annum.

The term "fish buyer" as used in this section means a buyer who ordinarily makes his purchases at a place or places other than his employer's business premises, and who buys for only one person. In the event the buyer buys for two or more persons, he shall be deemed a wholesale fish dealer and shall be required to be licensed as such.

**75.28.360 Boat house operator's license.** A boat house operator's license is required for any business engaged in the renting of boats to individuals for the purpose of taking or catching food fish or shellfish and the fee for said license is twenty-five dollars per annum, plus one dollar for each boat used by the boat house operator in the operation of his business.

**75.28.370 Branch plant license.** A branch license is required for each branch plant in the state of any wholesale, canning, by-products manufacturing or boat house business enterprise having more than one place of business. One such place shall be designated as headquarters and said license shall be obtained for each and every other place of business or branch plant. The fee for said license is seven dollars and fifty cents per annum.

**75.28.380 Forfeiture of license for violations.** Upon conviction of any person of a violation of any provision of this title, or rule or regulation of the director, the judge or justice of the peace may, in addition to the penalty imposed by law, forfeit the license of such person. Upon subsequent conviction of any such person of any violation of any provisions of this title or rule or regulation of the director, the forfeiture of such license shall be mandatory. The director may prohibit the issuance of a license to any person convicted two or more times of any such violation or prescribe the conditions under which license may be issued.

#### Chapter 75.32

### PRIVILEGE AND CATCH FEES ON FOOD FISH AND SHELLFISH

**75.32.010 "Columbia River district" defined.** The "Columbia River district" as used in this chapter shall include the counties of Klickitat, Skamania, Clark, Wahkiakum, Cowlitz, and that portion of Pacific county lying south of the northern boundaries of township 10 north, range 9 west, W. M.; township 10 north, range 10 west, W. M.; and township 10 north, range 11 west, W. M.

**75.32.020 Privilege fees required.** In addition to all other taxes, licenses or fees provided by law there shall be paid to the state of Washington by those engaged in the fishing industry in this state the privilege fees as provided for in this chapter.

**75.32.030 Cannery, processors, dealers—Other than Columbia River district—Privilege fees.** Cannery, curers, freezers, wholesale fish dealers, retail fish dealers or fish byproducts manufacturers of food fish or shellfish, except those located within the Columbia River district, shall pay a privilege fee equal to two percent of the primary market value on all fresh or frozen chinook and silver salmon which they receive, handle, deal in, or deal with as original receiver in the state, and they shall pay a privilege fee equal to one percent of the primary market value on all other fresh or frozen food fish and shellfish or parts thereof which they receive, handle, deal in or deal with, as original receiver in the state: *Provided*, That any person or sales agency selling fresh or frozen food fish or shellfish previously landed in the state to others residing outside

the state of Washington, shall be responsible for and shall pay the privilege taxes herein provided.

This section amended by Sec. 12, chap. 212, Laws of 1955.

**75.32.040 Canners, processors, dealers—Columbia River district—Privilege fees.** Canners, curers, freezers, retail dealers, wholesale dealers or fish byproducts manufacturers of food fish or shellfish located within the Columbia River district shall pay the following privilege fees on all fresh or frozen food fish, or parts thereof, and all fresh or frozen shellfish, or parts thereof, which they receive, handle, deal in or deal with as original receiver:

On all chinook salmon, three-fourths cent per pound;

On all steelhead, three-fourths cent per pound;

On all blueback salmon, three-fourths cent per pound;

On all silver salmon, three-fourths cent per pound;

On all sturgeon, three-fourths cent per pound;

On all striped bass, three-fourths cent per pound;

On all chum salmon, three-sixteenths cent per pound;

On all shad, three-sixteenths cent per pound;

On all smelt, three-tenths cent per pound;

On all tuna (albacore), twenty-five cents per hundred pounds;

On all pilchard, three and three-fourths cents per hundred pounds;

On all halibut, three and three-fourths cents per hundred pounds;

On all other fish, three and three-fourths cents per hundred pounds;

On all clams, three-tenths cent per pound;

On all crabs, seven and one-half cents per dozen;

On all livers, ten cents per hundred pounds;

Where the fees are computed on the basis of poundage the fees shall be computed and paid on the basis of the total whole or round weight of the fish or shellfish handled by the person as an original receiver.

**75.32.060 Fishing guides—Privilege fees.** Fishing guides shall pay a fee equal to one percent of the gross revenue they receive for services rendered to persons fishing for or taking food fish or shellfish.

This section repealed by sec. 14, chap. 212, Laws of 1955.

**75.32.070 Catch fees required—Exceptions.** A catch fee shall be paid by every person taking food fish or shellfish, or parts thereof, from the waters or beaches of this state for commercial purposes, and the fee shall be equal to two percent of the primary market value of all fresh or frozen chinook and silver salmon so taken, and one percent of the primary market value of all other species of food fish and shellfish, or parts thereof: *Provided*, That catch taxes shall not be paid by those taking shellfish from licensed oyster or clam farms nor by those taking food fish or shellfish from the waters of the Columbia River.

**75.32.075 Reserved.**

**75.32.080 Payment of catch fees—“Original receiver” defined—Responsibility for privilege taxes.** The catch fees provided for herein shall be deducted from the payments made by the original receiver to the person catching or landing the food fish or shellfish, and the original receiver shall collect the fees and remit them to the director, and in event he fails to do so he is liable for such fees as he fails to collect and remit.

“Original receiver” means the person first receiving, handling, dealing in, or dealing with the fresh or frozen fish or shellfish within the state of Washington as a canner, curer, freezer, retail dealer, wholesale dealer, byproducts manufacturer, or branch plant; and the privilege fees provided for herein shall be paid on all fresh or frozen food fish or shellfish handled by the original receivers regardless of where the fish or shellfish were caught: *Provided*, That no tax shall be paid on frozen food fish or frozen shellfish that has been previously landed in another state, territory, or country: *Provided further*, That any person or sales agency selling fresh or frozen food fish or shellfish previously landed in the state to others residing outside the state of Washington, shall be responsible for and shall pay the privilege taxes herein provided.

This section amended by sec. 6, chap. 212, Laws of 1955. Amendment vetoed.

**75.32.090 Payment of privilege fees.** The privilege fees herein provided for are due and payable in bimonthly installments, and the fees accruing during each bimonthly period shall be paid on or before the fifteenth day of the month immediately following the end of the bimonthly period. On or before the day payment is required as provided above the person paying the privilege fees shall make out a return under oath, upon such forms and setting forth such information as the director may require, and transmit the same, together with a remittance for the fees due to the director.

**75.32.100 Delinquent payments—Interest—Lien.** In the event the fees provided for are not paid as herein provided, interest shall accrue at the rate of eight percent per annum, and the delinquent payments together with the accrued interest thereon shall constitute a first lien upon the cannery, packing plant, building, boats, scows, or other equipment used by the person owing the fees in the taking, handling, or processing of food fish or shellfish.

**75.32.110 Director may make rules, etc., to insure payment of fees.** The director shall have the authority to promulgate such rules, regulations, and orders, and to require such reports as in his judgment shall be necessary to insure the payment of the fees herein required.

**75.32.120 Penalty for violations.** In event any person wilfully violates the provisions of this chapter, or any of the rules, regula-

tions, or orders of the director made pursuant to this chapter, he is guilty of a gross misdemeanor and subject to a fine, or imprisonment, or both.

**75.32.130 Director may require bond after wilful violation—License revocation for failure.** In event any person wilfully violates any of the provisions of this chapter or the rules, regulations, and orders of the director made pursuant to the provisions of this chapter, the director shall have the authority to require such person to post a bond, in an amount not to exceed five thousand dollars, conditioned upon his faithful performance of the provisions of the chapter and the rules, regulations, and orders of the director made pursuant to this chapter, and in event such person fails to post such a bond within thirty days after the same is demanded by the director, the director shall forthwith cancel and revoke any license or licenses to engage in the fishing industry that such person was theretofore issued by the state of Washington.

### Chapter 75.36

#### SEIZURE AND FORFEITURE OF PROPERTY FOR VIOLATIONS

**75.36.010 Seizure of property without warrant—Where authorized—Deposit of cash bond in lieu.** The director, fisheries inspectors, deputy fisheries inspectors, and ex officio fisheries inspectors may seize without warrant all food fish, shellfish, or parts thereof taken, killed, transported, or possessed contrary to law or rule or regulation of the director and may seize in a similar manner any boat, vehicle, gear, appliance, or other device used in violation of the fisheries code or the regulations of the director, or held with intent to violate the fisheries code or the regulations of the director, and the articles seized shall be forfeited to the state, regardless of the ownership of the articles seized: *Provided*, That the owner of the boat, vehicle, gear, appliance, or other device so seized may recover the same by depositing into court a cash bond equal to the value of the seized articles if the value of the same be less than five thousand dollars, or a cash bond in the amount of five thousand dollars, if the value of the seized boat, vehicle, gear, appliance, or other device be in excess of five thousand dollars, and the cash bond shall thereafter be subject to forfeiture to the state in lieu of the seized boat, vehicle, gear, appliance, or other device.

**75.36.020 Forfeiture may be in addition to other penalties.** The court shall have the power and jurisdiction in any prosecution for violation of the fisheries code or regulations of the director, in addition to imposing any penalty provided by law, to order for-

feited to the state any articles seized under the provisions of this chapter.

**75.36.030 Service of process and forfeiture where identity of violator not known.** In event it appears upon affidavit that the identity of the person responsible for the violation for which the seizure was made, is unknown or that for any reason the state is unable to prosecute the person responsible for the violation for which the seizure was made, the court nevertheless shall have the power and jurisdiction to forfeit such articles so seized upon a hearing duly held after service of summons describing the articles seized and giving notice of pending forfeiture by publication in the manner provided by law for the service of summons in civil actions.

**75.36.040 Concurrent jurisdiction of justice and superior courts.** Justice courts and superior courts shall have concurrent jurisdiction to order the forfeitures provided for in this chapter.

**75.36.050 Sale or destruction of property forfeited—Disposition of proceeds.** In the event of seizure and forfeiture of any articles as provided in this chapter, the director may sell or destroy all or any of such articles at public auction. The time, place, and manner of holding such sale shall be within the discretion of the director. Notice of the time and place of any such sale shall be published once a week for at least two consecutive weeks in advance of such sale, in at least one newspaper of general circulation in the county wherein the sale is to be held.

The proceeds from all such sales shall be deposited with the state treasurer to credit of the general fund.

## Chapter 75.40

### COMPACTS

**75.40.010 Compact with Oregon as to Columbia River fisheries authorized.** Should congress by virtue of the authority vested in it under article 1, section 10, of the Constitution of the United States, providing for compacts and agreements between states, ratify the recommendations of the conference committees of the states of Washington and Oregon, appointed to agree on legislation necessary for the regulation, preservation and protection of fish in the waters of the Columbia River, or its tributaries, over which said states have concurrent jurisdiction, or which would be affected by said concurrent jurisdiction, said recommendation being as follows: "We further recommend that a resolution be passed by the legislatures of Washington and Oregon, whereby the ratification by Congress of the laws of the states of Washington and

Oregon shall act as a treaty between said states, subject to modification only by joint agreement by said states"; and said recommendation having been approved by resolution adopting the report of the conference committee, then, and in that event, there shall exist between the states of Washington and Oregon a definite compact and agreement, the purport of which shall be substantially as follows:

All laws and regulations now existing or which may be necessary for regulating, protecting or preserving fish in the waters of the Columbia River, or its tributaries, over which the states of Washington and Oregon have concurrent jurisdiction, or which would be affected by said concurrent jurisdiction, shall be made, changed, altered and amended in whole or in part, only with the mutual consent and approbation of both states.

**75.40.020 Director to represent state in changing Columbia River fishing seasons.** The director is hereby authorized for and on behalf of the state of Washington to give to the state of Oregon such consent and approbation of the state of Washington as is necessary under and pursuant to the compact entered into between the states of Washington and Oregon, as set out in RCW 75.40.010, to change the open and closed seasons in the Columbia River district as permitted in this chapter.

**75.40.030 Pacific Marine Fisheries Compact—Provisions.** Should congress, by virtue of the authority vested in it under article 1, section 10, of the Constitution of the United States, providing for compacts and agreements between the states, ratify The Pacific Marine Fisheries Compact, recommended by the Interstate Committee on Offshore Fisheries of the Western Regional Legislative Conference of the Council of State Governments, after the enactment of this compact by two or more of the states of California, Oregon and Washington, then, and in that event, there shall exist between the contracting states a definite compact and agreement, the purport of which shall be substantially as follows:

## THE PACIFIC MARINE FISHERIES COMPACT

The contracting states do hereby agree as follows:

### ARTICLE I.

The purposes of this compact are and shall be to promote the better utilization of fisheries, marine, shell and anadromous, which are of mutual concern, and to develop a joint program of protection and prevention of physical waste of such fisheries in all of those areas of the Pacific Ocean over which the states of California, Ore-

gon and Washington jointly or separately now have or may hereafter acquire jurisdiction.

Nothing herein contained shall be construed so as to authorize the aforesaid states or any of them to limit the production of fish or fish products for the purpose of establishing or fixing the prices thereof or creating and perpetuating a monopoly.

## ARTICLE II.

This agreement shall become operative immediately as to those states executing it whenever two or more of the states of California, Oregon and Washington have executed it in the form that is in accordance with the laws of the executing states and the congress has given its consent.

## ARTICLE III.

Each state joining herein shall appoint, as determined by state statutes, one or more representatives to a commission hereby constituted and designated as The Pacific Marine Fisheries Commission, of whom one shall be the administrative or other officer of the agency of such state charged with the conservation of the fisheries resources to which this compact pertains. This commission shall be a body with the powers and duties set forth herein.

The term of each commissioner of The Pacific Marine Fisheries Commission shall be four years. A commissioner shall hold office until his successor shall be appointed and qualified but such successor's term shall expire four years from legal date of expiration of the term of his predecessor. Vacancies occurring in the office of such commissioner from any reason or cause shall be filled for the unexpired term, or a commissioner may be removed from office, as provided by the statutes of the state concerned. Each commissioner may delegate in writing from time to time to a deputy the power to be present and participate, including voting as his representative or substitute, at any meeting of or hearing by or other proceeding of the commission.

Voting powers under this compact shall be limited to one vote for each state regardless of the number of representatives.

## ARTICLE IV.

The duty of the said commission shall be to make inquiry and ascertain from time to time such methods, practices, circumstances and conditions as may be disclosed for bringing about the conservation and the prevention of the depletion and physical waste of the fisheries, marine, shell, and anadromous in all of those areas of the Pacific Ocean over which the states of California, Oregon and Washington jointly or separately now have or may hereafter

acquire jurisdiction. The commission shall have power to recommend the coordination of the exercise of the police powers of the several states within their respective jurisdictions and said conservation zones to promote the preservation of those fisheries and their protection against over-fishing, waste, depletion or any abuse whatsoever and to assure a continuing yield from the fisheries resources of the signatory parties hereto.

To that end the commission shall draft and, after consultation with the advisory committee hereinafter authorized, recommend to the governors and legislative branches of the various signatory states hereto legislation dealing with the conservation of the marine, shell and anadromous fisheries in all of those areas of the Pacific Ocean over which the states of California, Oregon and Washington jointly or separately now have or may hereafter acquire jurisdiction. The commission shall, more than one month prior to any regular meeting of the legislative branch in any state signatory hereto, present to the governor of such states its recommendations relating to enactments by the legislative branch of that state in furthering the intents and purposes of this compact.

The commission shall consult with and advise the pertinent administrative agencies in the signatory states with regard to problems connected with the fisheries and recommend the adoption of such regulations as it deems advisable and which lie within the jurisdiction of such agencies.

The commission shall have power to recommend to the states signatory hereto the stocking of the waters of such states with marine, shell or anadromous fish and fish eggs or joint stocking by some or all of such states and when two or more of the said states shall jointly stock waters the commission shall act as the coordinating agency for such stocking.

#### ARTICLE V.

The commission shall elect from its number a chairman and a vice chairman and shall appoint and at its pleasure, remove or discharge such officers and employees as may be required to carry the provisions of this compact into effect and shall fix and determine their duties, qualifications and compensation. Said commission shall adopt rules and regulations for the conduct of its business. It may establish and maintain one or more offices for the transaction of its business and may meet at any time or place within the territorial limits of the signatory states but must meet at least once a year.

#### ARTICLE VI.

No action shall be taken by the commission except by the affirmative vote of a majority of the whole number of compacting states

represented at any meeting. No recommendation shall be made by the commission in regard to any species of fish except by the vote of a majority of the compacting states which have an interest in such species.

#### ARTICLE VII.

The fisheries research agencies of the signatory states shall act in collaboration as the official research agency of The Pacific Marine Fisheries Commission.

An advisory committee to be representative of the commercial fishermen, commercial fishing industry and such other interests of each state as the commission deems advisable shall be established by the commission as soon as practicable for the purpose of advising the commission upon such recommendations as it may desire to make.

#### ARTICLE VIII.

Nothing in this compact shall be construed to limit the powers of any state or to repeal or prevent the enactment of any legislation or the enforcement of any requirement by any state imposing additional conditions and restrictions to conserve its fisheries.

#### ARTICLE IX.

Continued absence of representation or of any representative on the commission from any state party hereto, shall be brought to the attention of the governor thereof.

#### ARTICLE X.

The states agree to make funds available annually to the support of the commission in proportion to the primary market value of the products of their fisheries as recorded in the latest published reports (five year average): *Provided*, No state shall contribute less than two thousand dollars per annum and the annual contribution of each state above the minimum shall be figured to the nearest one hundred dollars.

The states agree to make available annual funds in the amounts scheduled below, which amounts are calculated in the manner set forth herein, on the basis of the latest five year catch records. Subsequent budgets shall be recommended by a majority of the commission and the total amount thereof allocated equitably among the states in accordance with the above formula.

## SCHEDULE OF INITIAL ANNUAL STATE CONTRIBUTIONS

California .....	\$11,000
Oregon .....	2,000
Washington .....	2,000
	<hr/>
Total .....	\$15,000

## ARTICLE XI.

This compact shall continue in force and remain binding upon each state until renounced by it. Renunciation of this compact must be preceded by sending six months' notice in writing of intention to withdraw from the compact to the other parties hereto.

**75.40.040 Director to represent state on Pacific fisheries commission.** In the event the compact set forth in RCW 75.40.030 becomes effective, the director of fisheries, ex officio, shall act as the representative of this state on The Pacific Marine Fisheries Commission, in accordance with the provisions of, and with the powers and duties provided in the compact.

**75.40.050 Offshore fishing in Pacific—Rules and regulations.** In the event the compact set forth in RCW 75.40.030 becomes effective, the director shall have the power and he is hereby authorized from time to time to make, adopt, amend and promulgate, governing offshore fishing in the Pacific Ocean by citizens of this state, rules and regulations, prohibiting wastage of food or shellfish, establishing open and closed season for all fishing, designating areas open or closed to fishing, setting minimum and maximum sizes of fish and shellfish that may be taken, declaring the kinds of food or shellfish that may be used for bait, and regulating fishing gear to be used as to mesh, size and length of nets and number, length and size of line and hooks: *Provided*, That no rule or regulation shall be issued governing the conduct of citizens of this state unless like rules or regulations or statutes have been made or will become effective jointly as to the citizens of the states of Oregon and California.

**75.40.060 Fraser River sockeye salmon fishery—Adoption, enforcement of convention authorized.** The director and his duly authorized agents are hereby authorized to adopt and to enforce the provisions of the convention between the United States and the Dominion of Canada for the protection, preservation and extension of the sockeye salmon fishery of the Fraser River system, signed at Washington, District of Columbia, on the twenty-sixth day of May, 1930, and the regulations of the commission promulgated under authority of said convention.

**75.40.070 Penalty for violation of rules and regulations.** Any person violating any of the rules or regulations of the director issued in accordance with this chapter, shall be guilty of a misdemeanor.

### Chapter 75.98

## CONSTRUCTION

**75.98.010 Continuation of existing law.** The provisions of this title insofar as they are substantially the same as statutory provisions repealed by this chapter, and relating to the same subject matter, shall be construed as restatements and continuations, and not as new enactments.

**75.98.020 Title, chapter, section headings not part of law.** Title headings, chapter headings, and section or subsection headings, as used in this title do not constitute any part of the law.

**75.98.030 Invalidity of part of title not to affect remainder.** If any provision of this title, or its application to any person or circumstance is held invalid, the remainder of the title, or the application of the provision to other persons or circumstances is not affected.

**75.98.040 Construction of certain sections.** Nothing in RCW 43.25.010, 43.25.045, 43.25.047, 75.08.025, 75.28.020, 75.28.030, 75.28.080, 75.28.195, 75.28.310, 75.28.325, 75.28.370, 75.32.030, and 75.32.080 shall be construed to restrict or impair the authority of the director of fisheries consistent with and pursuant to the provisions thereof from issuing and publishing such regulations as, after investigation, he may deem necessary to administer said sections and to effectuate their purposes, or to administer and effectuate all other acts governing or affecting the department of fisheries, nor shall anything herein be construed to restrict or impair the authority of the director to issue and publish regulations he may find necessary under the provisions of the Pacific Marine Fisheries Compact.

**75.98.050 Repeals and savings.** The following acts or parts of acts are repealed:

- (1) Chapter 9, Laws of 1949;
- (2) Chapter 107, Laws of 1949;
- (3) Chapter 99, Laws of 1949;
- (4) Sections 1, 2, 6, 7, 8, 10, 13 through 23, and 25 through 87, chapter 112, Laws of 1949;
- (5) Sections 1 through 38, 42 through 45, and 47 through 49, chapter 271, Laws of 1951;
- (6) Chapter 7, Laws of 1951, 1st extraordinary session;
- (7) Chapter 147, Laws of 1953;

(8) Sections 1 through 9, 11, and 15 through 18, chapter 207, Laws of 1953.

Such repeals shall not be construed as affecting any existing right acquired under the provisions of the statutes repealed, nor any rule, regulation or order adopted pursuant thereto, nor as affecting any proceeding instituted thereunder.

**75.98.060 Emergency.** This act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House January 26, 1955.

Passed the Senate January 31, 1955.

Approved by the Governor February 8, 1955.

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## CHAPTER 13

[ H. B. 9. ]

### MUTUAL SAVINGS BANKS CODE

**AN ACT** relating to mutual savings banks; enacting a mutual savings banks code to be known as Title 32 of the Revised Code of Washington; providing penalties and repealing chapter 175, Laws of 1915; chapter 156, Laws of 1921; chapter 86, Laws of 1925, extraordinary session; chapter 184, Laws of 1927; chapter 74, Laws of 1929; chapter 123, Laws of 1929; sections 1, 2, and 4 through 12, chapter 132, Laws of 1931; chapter 10, Laws of 1935; chapter 87, Laws of 1935; chapter 95, Laws of 1937; chapter 15, Laws of 1941; chapter 135, Laws of 1945; chapter 228, Laws of 1945; chapter 119, Laws of 1949; and chapter 238, Laws of 1953; and declaring an emergency.

*Be it enacted by the Legislature of the State of Washington:*

## TITLE 32

### MUTUAL SAVINGS BANKS

#### Chapter 32.04

#### GENERAL PROVISIONS

**32.04.010 Scope of title.** This title shall not be construed as amending or repealing any other law of the state authorizing the incorporation of banks or regulating the same, but shall be deemed to be additional legislation for the sole purpose of authorizing the incorporation and operation of mutual savings banks as herein prescribed. Savings banks incorporated on the stock plan and other