

CHAPTER 212.

[H. B. 322.]

FOOD FISH AND SHELLFISH.

AN ACT relating to the fisheries code of the state of Washington; amending section 75.08.040, chapter 12, Laws of 1955 and RCW 75.08.040, and section 75.28.040, chapter 12, Laws of 1955 and RCW 75.28.040, and section 75.28.060, chapter 12, Laws of 1955 and RCW 75.28.060, and section 75.28.090, chapter 12, Laws of 1955 and RCW 75.28.090, and section 75.32.080, chapter 12, Laws of 1955 and RCW 75.32.080, and section 75.24.090, chapter 12, Laws of 1955 and RCW 75.24.090, and section 75.28.280, chapter 12, Laws of 1955 and RCW 75.28.280, and section 75.28.300, chapter 12, Laws of 1955 and RCW 75.28.300, and section 75.32.030, chapter 12, Laws of 1955 and RCW 75.32.030; and adding new sections to chapter 75.28 RCW, and a new section to 75.32 RCW; and repealing section 75.32.060, chapter 12, Laws of 1955 and RCW 75.32.060; and declaring an emergency.

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

SECTION 1. Section 75.08.040, chapter 12, Laws of 1955 and RCW 75.08.040 are each amended to read as follows: Amendment.

Lands, waterrights, rights of way — Acquisition, use, and management. The director shall select and acquire by gift, easement, 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. Director may acquire by gift, easement, purchase, lease, condemnation, and any other lawful means.

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. Concessions on property.

SEC. 2. Section 75.28.040, chapter 12, Laws of 1955 and RCW 75.28.040 are each amended to read as follows: Amendment.

Expiration and renewal of licenses.

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

Amendment.

SEC. 3. Section 75.28.060, chapter 12, Laws of 1955 and RCW 75.28.060 are each amended to read as follows:

Licenses non-transferable.

Licenses nontransferable—Must be carried—Non-resident gear—Carrying or operating more than one type of commercial gear unlawful. 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.

Nonresident gear license.

Licenses must be carried.

Carrying or operating more than one type of commercial gear unlawful.

It shall be unlawful for any person to operate or have aboard any commercial fishing vessel more than one type of lawful salmon fishing gear which cannot lawfully be used in fishing for personal use, except as the director of fisheries may otherwise provide.

Amendment.

SEC. 4. Section 75.28.090, chapter 12, Laws of 1955 and RCW 75.28.090 are each amended to read as follows:

Fishing guide license.

Fishing guide license. A fishing guide license shall be obtained by every person who offers services as or who performs the services of a professional guide for others in the taking of food fish or shellfish.

The fee for such license is twenty-five dollars per annum for residents and seventy-five dollars per annum for nonresidents. Fee.

SEC. 5. There is added to chapter 75.28 RCW, a new section to read as follows: New section.

A license is required for the taking or catching of carp for commercial purposes with any gear authorized by the director in the waters of the state, for which license there shall be paid a fee of five dollars. License for catching of carp. Fee.

SEC. 6. Section 75.32.080, chapter 12, Laws of 1955 and RCW 75.32.080 are each amended to read as follows:

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 food 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 food fish or shellfish were caught: *Provided*, That no catch fees 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

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

Amendment. SEC. 7. Section 75.24.090, chapter 12, Laws of 1955 and RCW 75.24.090 are each amended to read as follows:

Culled shellfish must be returned to beds. 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 and 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, except as the director may otherwise provide.

SEC. 8. Section 75.28.280, chapter 12, Laws of 1955 and RCW 75.28.280 are each amended to read as follows:

Clam farm license. A license is required for each and every clam farm of one or more tracts of land being operated for commercial purposes on privately owned or leased tidelands in the state. The fee for said license is fifteen dollars per annum, and shall be paid for each and every year in which clams are removed from the clam farm for purposes of sale. A separate license is required for each clam farm being operated within each of the following clam districts; northern Puget Sound district, southern Puget Sound district, Grays Harbor district, and Willapa Harbor district; said districts are to include the waters, beds, shores, beaches, and tidelands of, northern Puget Sound, southern Puget Sound, Grays Harbor, and Willapa Harbor, respectively, as geographically defined by the director of fisheries under appropriate regulations.

New section. SEC. 9. There is added to chapter 75.28 RCW, a new section to read as follows:

Oyster farm license. A license is required for each and every oyster farm being operated for commercial purposes on

privately owned or leased tidelands in the state. The fee for said license is fifteen dollars per annum, and shall be paid for each and every year in which oysters are removed from the oyster farm for purposes of sale as seed stock or otherwise. A separate license is required for each oyster farm being operated within each of the following oyster districts: northern Puget Sound district, southern Puget Sound district, Grays Harbor district, and Willapa Harbor district; said districts are to include the waters, beds, shores, beaches, and tidelands of, northern Puget Sound, southern Puget Sound, Grays Harbor, and Willapa Harbor, respectively, as geographically defined by the director of fisheries under appropriate regulations.

Fee.

Separate license for each oyster farm.

Districts include.

SEC. 10. There is added to chapter 75.28 RCW, a new section to read as follows:

New section.

A clam farm license or an oyster farm license or both as provided in sections 10 [8] and 11 [9] of this act shall be required of:

Clam or oyster farm license required.

(1) Any person or company owning and operating an oyster farm or clam farm or both;

Owner-operator.

(2) Any lessee operating an oyster farm or clam farm or both, except when the owner thereof comes within the provisions of subsection (3) of this section;

Lessee-operator.

(3) Any person or company owning an oyster farm or a clam farm or both, operated by a lessee or another, which owner handles, processes, sells, or otherwise deals in the oysters or clams or both produced thereon, which are received by the owner as total or partial consideration for the use of the oyster or clam farm or both.

Owner-nonoperator.

SEC. 11. Section 75.28.300, chapter 12, Laws of 1955 and RCW 75.28.300 are each amended to read as follows:

Amendment.

Wholesale fish dealer's license. A wholesale fish dealer's license is required for:

Require wholesale fish dealer's license.

(1) Any business in the state engaged in the

freezing, salting, smoking, kippering, preserving in ice or any processing or curing of any food fish or shellfish;

(2) Any business in the state engaged in the wholesale selling of food fish or shellfish; and

(3) Any fisherman or clam or oyster farmer selling his catch direct to retail fish or shellfish dealers.

Fee. The fee for said permit is thirty-seven dollars and
No application. fifty cents per annum. This section shall not apply to persons buying or selling oyster seed for transplant.

Amendment. SEC. 12. Section 75.32.030, chapter 12, Laws of 1955 and RCW 75.32.030 are each amended to read as follows:

Canners, processors, dealers. Canners, processors, dealers—Other than Columbia River district—Privilege fees. Canners, curers, freezers, wholesale dealers and retail dealers of food fish and shellfish, other than oysters, and manufacturers of food fish and shellfish byproducts, other than oyster byproducts, 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 part thereof, except oysters, 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.

Exception. Privilege fee.
Chinook and silver salmon fee.
Original receiver.
Other, fee.
Proviso.

SEC. 13. There is added to chapter 75.32 RCW, a new section to read as follows:

New section. Canners, curers, freezers, wholesale dealers and
Canners, processors, dealers of oysters.

retail dealers of oysters, and manufacturers of oyster byproducts, shall pay a privilege fee equal to one cent per gallon or bushel on Pacific oysters, and six and one-half cents per gallon or bushel on Olympia oysters, New Washington oysters or Kumamoto oysters which they receive, handle, deal in or deal with as original receiver in this state: *Provided*, That any person or sales agency selling fresh or frozen oysters previously taken in the state to others residing outside the state of Washington, shall be responsible for and shall pay the privilege taxes herein provided.

Privilege fee.

Proviso.

SEC. 14. Section 75.32.060, chapter 12, Laws of 1955 and RCW 75.32.060 are each repealed.

Repeal.

SEC. 15. The several provisions of this act are hereby declared to be separate and severable and if any clause, sentence, paragraph, subdivision, section or part thereof shall, for any reason, be adjudged invalid, or the applicability thereof to any person, circumstance or product adjudged invalid, such judgment shall not affect, impair or invalidate the remainder of the act, and the applicability thereof to other persons, circumstances or products shall not thereby be affected, but such judgment, if any, shall be confined in its operation to the particular clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Invalidity.

SEC. 16. This act is necessary for the immediate preservation of the public health, peace and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Emergency.

Passed the House March 1, 1955.

Passed the Senate March 8, 1955.

Approved by the Governor March 16, 1955, with the exception of Section 6, which is vetoed.

Note: Excerpt of Governor's Veto Message reads as follows:

" * * * Section 6 of this bill was originally prepared to make certain minor revisions of RCW 75.32.080. This section,

which was section 8 in the original printed bill, was prepared for the purpose of inserting the adjective 'food' in two different places preceding the word 'fish', thereby more specifically identifying the subject matter of certain provisions as 'food fish'.

"In the preparation of this bill, the draftsman inadvertently substituted the words 'catch fees' for the word 'tax' in the first proviso to the second paragraph of section 6. The present law provides for privilege fees to be imposed upon canneries who process certain fish. This tax is imposed by RCW 75.32.030. The proviso in the original statute which was sought to be amended by section 6 of this bill, exempts from that privilege tax dealers in frozen fish. By erroneously changing the word 'tax' to 'catch fee,' the proviso now purports to exempt dealers in frozen fish from the catch fee imposed by RCW 75.32.070. That tax is, of course, inapplicable to such dealers. The proviso is therefore erroneously worded and would have an erroneous application.

"For this reason section 6 of House Bill No. 322 is vetoed and the remainder of the bill is approved."

CHAPTER 213.

[H. B. 148.]

EMINENT DOMAIN BY STATE.

AN ACT relating to eminent domain by the state, and revising and amending section 4, chapter 74, Laws of 1891, as amended by section 1, chapter 98, Laws of 1925 extraordinary session, and as amended by section 1, chapter 177, Laws of 1951, and RCW 8.04.070, 8.04.080, 8.04.090 and 8.04.100, and adding a new section to chapter 8.04 RCW.

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

Amendment.

SECTION 1. Section 4, chapter 74, Laws of 1891, as amended by section 1, chapter 98, Laws of 1925 extraordinary session, and as amended by section 1, chapter 177, Laws of 1951 (heretofore divided and codified as RCW 8.04.070, 8.04.080, 8.04.090 and 8.04.100) is divided and amended as set forth in sections 2 through 5 of this act.

Enacted
without
amendment.

SEC. 2. (RCW 8.04.070) At the time and place appointed for hearing the petition, or to which the hearing may have been adjourned, if the court has satisfactory proof that all parties interested in the lands, real estate, premises or other property described in the petition have been duly served with the