

shall be sufficient to maintain up to forty-five vessels in the sea urchin fishery. The director shall adopt rules governing the application, selection, and issuance procedure for new sea urchin endorsements, based upon recommendations of a board of review established under RCW 75.30.050.

NEW SECTION. Sec. 3. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House February 13, 1990.

Passed the Senate March 1, 1990.

Approved by the Governor March 15, 1990.

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CHAPTER 63

[House Bill No. 2290]

EMERGING COMMERCIAL FISHERIES—ESTABLISHMENT

AN ACT Relating to the establishment of emerging commercial fisheries through a special harvest permit process; amending RCW 75.08.011; adding new sections to chapter 75.30 RCW; adding a new section to chapter 75.10 RCW; and creating a new section.

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

NEW SECTION. Sec. 1. The legislature finds that:

- (1) A number of commercial fisheries have emerged or expanded in the past decade;
- (2) Scientific information is critical to the proper management of an emerging or expanding commercial fishery; and
- (3) The scientific information necessary to manage an emerging or expanding commercial fishery can best be obtained through the use of limited experimental fishery permits allowing harvest levels that will preserve and protect the state's food fish and shellfish resource.

NEW SECTION. Sec. 2. A new section is added to chapter 75.30 RCW to read as follows:

- (1) The director may by rule designate a fishery as an emerging commercial fishery.
- (2) The director may issue experimental fishery permits for commercial harvest in an emerging commercial fishery. The director shall determine by rule the number and qualifications of participants for such experimental fishery permits. The director shall limit the number of these permits to prevent habitat damage, ensure conservation of the resource, and prevent overharvesting. In developing rules for limiting participation in an emerging or expanding commercial fishery, the director shall appoint a five-person advisory board representative of the affected fishery industry. The advisory

board shall review and make recommendations to the director on rules relating to the number and qualifications of the participants for such supplemental fishery permits.

(3) RCW 34.05.422(3) does not apply to applications for new experimental fishery permits.

(4) Upon request of a vessel owner, the director may allow the vessel owner to temporarily transfer the experimental fishery permit to a leased or rented vessel. The director shall allow such temporary transfers only when the vessel holding the experimental fishery permit is disabled.

**NEW SECTION.** Sec. 3. A new section is added to chapter 75.30 RCW to read as follows:

Whenever the director promulgates a rule designating an emerging commercial fishery, the legislative standing committees of the house of representatives and senate dealing with fisheries issues shall be notified of the rule and its justification thirty days prior to the effective date of the rule.

**NEW SECTION.** Sec. 4. A new section is added to chapter 75.30 RCW to read as follows:

Within five years after adopting rules to govern the number and qualifications of participants in an emerging commercial fishery, the director shall provide to the appropriate senate and house of representatives committees a report which outlines the status of the fishery and a recommendation as to whether a separate commercial license, license fee, or endorsement and/or a limited harvest program should be established for that fishery.

**NEW SECTION.** Sec. 5. A new section is added to chapter 75.10 RCW to read as follows:

Upon conviction of a person for violation of the conditions or requirements of an experimental fishery permit or provisions of this title or rule of the director while engaged in an emerging commercial fishery, the director may suspend or revoke the experimental fishery permit and all fishing privileges pursuant thereto or present the conditions under which the experimental fishery permit may be reissued. That suspension or revocation shall become effective on the date the director gives the notice prescribed in RCW 34.05.422(1)(c).

For the purposes of this section, the term "conviction" means a final conviction in a state or municipal court. An unvacated forfeiture of bail or collateral of more than two hundred fifty dollars deposited to secure the defendant's appearance in court, the payment of a fine, a plea of guilty, or a finding of guilt on a violation of this title is equivalent to a conviction regardless of whether the imposition of sentence is deferred or the penalty is suspended.

Sec. 6. Section 75.04.010, chapter 12, Laws of 1955 as last amended by section 1, chapter 218, Laws of 1989 and RCW 75.08.011 are each amended to read as follows:

As used in this title or rules of the director, unless the context clearly requires otherwise:

(1) "Director" means the director of fisheries.

(2) "Department" means the department of fisheries.

(3) "Person" means an individual or a public or private entity or organization. The term "person" includes local, state, and federal government agencies, and all business organizations.

(4) "Fisheries patrol officer" means a person appointed and commissioned by the director, with authority to enforce this title, rules of the director, and other statutes as prescribed by the legislature. Fisheries patrol officers are peace officers.

(5) "Ex officio fisheries patrol officer" means a commissioned officer of a municipal, county, state, or federal agency having as its primary function the enforcement of criminal laws in general, while the officer is in the appropriate jurisdiction. The term "ex officio fisheries patrol officer" also includes wildlife agents, special agents of the national marine fisheries service, United States fish and wildlife special agents, state parks commissioned officers, department of natural resources enforcement officers, and United States forest service officers, while the agents and officers are within their respective jurisdictions.

(6) "To fish" and "to take" and their derivatives mean an effort to kill, injure, harass, or catch food fish or shellfish.

(7) "State waters" means all marine waters and fresh waters within ordinary high water lines and within the territorial boundaries of the state.

(8) "Offshore waters" means marine waters of the Pacific Ocean outside the territorial boundaries of the state, including the marine waters of other states and countries.

(9) "Concurrent waters of the Columbia river" means those waters of the Columbia river that coincide with the Washington-Oregon state boundary.

(10) "Resident" means a person who has for the preceding ninety days maintained a permanent abode within the state, has established by formal evidence an intent to continue residing within the state, and is not licensed to fish as a resident in another state.

(11) "Nonresident" means a person who has not fulfilled the qualifications of a resident.

(12) "Food fish" means those species of the classes Osteichthyes, Agnatha, and Chondrichthyes that shall not be fished for except as authorized by rule of the director. The term "food fish" includes all stages of development and the bodily parts of food fish species.

(13) "Shellfish" means those species of marine and freshwater invertebrates that shall not be taken except as authorized by rule of the director. The term "shellfish" includes all stages of development and the bodily parts of shellfish species.

(14) "Salmon" means all species of the genus *Oncorhynchus*, except those classified as game fish in Title 77 RCW, and includes:

Scientific Name	Common Name
<i>Oncorhynchus tshawytscha</i>	Chinook salmon
<i>Oncorhynchus kisutch</i>	Coho salmon
<i>Oncorhynchus keta</i>	Chum salmon
<i>Oncorhynchus gorbuscha</i>	Pink salmon
<i>Oncorhynchus nerka</i>	Sockeye salmon

(15) "Commercial" means related to or connected with buying, selling, or bartering. Fishing for food fish or shellfish with gear unlawful for fishing for personal use, or possessing food fish or shellfish in excess of the limits permitted for personal use are commercial activities.

(16) "To process" and its derivatives mean preparing or preserving food fish or shellfish.

(17) "Personal use" means for the private use of the individual taking the food fish or shellfish and not for sale or barter.

(18) "Angling gear" means a line attached to a rod and reel capable of being held in hand while landing the fish or a hand-held line operated without rod or reel to which are attached no more than two single hooks or one artificial bait with no more than four multiple hooks.

(19) "Emerging commercial fishery" means any commercial fishery:

(a) For food fish or shellfish so designated by rule of the director, except that no species harvested under a license limitation program contained in chapter 75.30 RCW may be designated as a species in an emerging commercial fishery.

(b) Which will include, subject to the limitation in (a) of this subsection, all species harvested for commercial purposes as of the effective date of this act and the future commercial harvest of all other species in the waters of the state of Washington.

(20) "Experimental fishery permit" means a permit issued by the director to allow the recipient to engage in an emerging commercial fishery.

Passed the House March 3, 1990.

Passed the Senate February 28, 1990.

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