

Enrolled
House Bill 3657

Sponsored by COMMITTEE ON RULES

CHAPTER

AN ACT

Relating to commercial fishing; creating new provisions; amending ORS 508.235, 508.285, 508.760, 508.765, 508.790, 508.816, 508.858, 508.901 and 508.941; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 508.235 is amended to read:

508.235. (1) A commercial fishing license must be obtained by each individual who, for commercial purposes:

- (a) Takes or assists in the taking of any food fish from the waters or land of this state;
- (b) Operates or assists in the operation of any boat or fishing gear for the taking of food fish in the waters of this state; or
- (c) Lands food fish from the waters of the Pacific Ocean at any point in this state.

(2) A commercial fishing license must be in the possession of the licensee, when engaged in the taking or landing of commercial fish, and is required in addition to any other license under this chapter.

(3) Notwithstanding any other provision of this section or ORS 508.035, upon application of the holder of a boat license, the State Fish and Wildlife Commission shall issue to the applicant in the name of the boat, one commercial fishing license for each individual who assists the holder of the boat license in the taking of fish for commercial purposes. Notwithstanding ORS 508.465, licenses issued pursuant to this subsection are transferable to all individuals who assist in the taking of fish for commercial purposes on the boat for which the licenses are issued. Notwithstanding ORS 508.285, the fee for the license issued pursuant to this subsection in the name of a boat:

- (a) With a resident boat license is \$125 for each individual.
- (b) With a nonresident boat license is [~~\$350~~] **\$175** for each individual.

SECTION 2. ORS 508.285 is amended to read:

508.285. (1) The fee for each license required by this chapter is as follows:

- (a) Albacore tuna landing license for boats that do not hold a valid commercial fishing license from another state, \$125.
- (b) Albacore tuna landing license for boats that hold a valid commercial fishing license from another state, \$20.
- (c) Resident boat license, \$325.
- (d) Nonresident boat license, [~~\$760~~] **\$375**.
- (e) Resident commercial fishing license, \$80.
- (f) Nonresident commercial fishing license, [~~\$290~~] **\$130**.
- (g) Commercial fishing license for resident persons 18 years of age or younger, \$30.
- (h) Commercial bait fishing license, \$100.

- (i) Fish buyer license, \$250.
- (j) Fish bait dealer license, \$100.
- (k) Food fish canner license, \$450.
- (L) Shellfish canner license, \$450.
- (m) Single delivery license, \$125.
- (n) Wholesale fish dealer license, \$450.

(2) As used in this section, "resident" means an actual bona fide resident of this state for at least one year prior to application for a license.

SECTION 3. ORS 508.760 is amended to read:

508.760. (1) Notwithstanding any other provision of the commercial fishing laws, in order to provide a sea urchin (*Strongylocentrotus franciscanus*, *S. purpuratus* and *S. droebachiensis*) commercial fishery with optimum profits to those engaged in the fishery and to prevent a concentration of fishing effort that would deplete the resource, the State Fish and Wildlife Commission, by rule, shall establish a system for limiting participation in the sea urchin commercial fishery. Any such system may include, but is not limited to, provisions on the following matters:

(a) Establishment of criteria for initial entry into fishery participation and for annual qualification for participation thereafter.

(b) Establishment of terms and conditions for transferring participation rights.

(2)(a) The annual fee to participate in the sea urchin fishery is:

(A) \$100 for resident applicants.

(B) [~~\$290~~] **\$150** for nonresident applicants.

(b) A fee of \$100 shall be charged for each transfer of participation rights under this section.

SECTION 4. ORS 508.765 is amended to read:

508.765. (1) Notwithstanding any other provision of the commercial fishing laws, in order to provide a roe-herring commercial fishery with optimum profits to those engaged in the fishery and to prevent a concentration of fishing effort that would deplete the resource, the State Fish and Wildlife Commission, by rule, shall establish a system for limiting participation in the roe-herring commercial fishing. Any such system may include, but is not limited to, provisions on the following matters:

(a) Establishment of criteria for initial entry into fishery participation and for annual qualification for participation thereafter.

(b) Establishment of terms and conditions for transferring participation rights.

(2)(a) The annual fee to participate in the roe-herring fishery is:

(A) \$125 for resident applicants.

(B) [~~\$290~~] **\$175** for nonresident applicants.

(b) A fee of \$100 shall be charged for each transfer of participation rights under this section.

(3)(a) A denial by the commission of an application for renewal of any permit or transfer of any permit established under this section shall be subject to review by the Commercial Fishery Permit Board upon written request of the applicant. The review provided under this subsection shall be in lieu of any such review by the commission or the State Department of Fish and Wildlife.

(b) Request for review under this subsection shall be on such forms and contain such information as the board shall determine. Requests for review shall be accompanied by a \$125 fee, which fee shall apply toward any applicable permit fees resulting from an order of the board in favor of the requesting applicant.

(4) Orders issued by the board are not subject to review by the commission but may be appealed as provided in ORS chapter 183.

(5) According to the provisions of ORS chapter 183, the board shall adopt such rules as it determines necessary to carry out its duties, functions and powers.

SECTION 5. ORS 508.790 is amended to read:

508.790. (1) The annual fee for the vessel permit required by ORS 508.775 is:

(a) \$26 for resident applicants.

(b) [~~\$216~~] **\$76** for nonresident applicants.

(2) Applications shall be in such form and contain such information as the State Department of Fish and Wildlife, by rule, may prescribe.

SECTION 6. ORS 508.816 is amended to read:

508.816. (1) The annual fee for the vessel permit required by ORS 508.801 is:

- (a) \$35 for resident applicants.
- (b) [~~\$225~~] **\$85** for nonresident applicants.

(2) Applications shall be in such form and contain such information as the State Department of Fish and Wildlife, by rule, may prescribe.

SECTION 7. ORS 508.858 is amended to read:

508.858. The annual fee for the vessel permit required by ORS 508.840 is:

- (1) \$125 for resident applicants.
- (2) [~~\$290~~] **\$175** for nonresident applicants.

SECTION 8. ORS 508.901 is amended to read:

508.901. (1) The annual fee for the vessel permit required by ORS 508.880 is:

- (a) \$125 for resident applicants.
- (b) [~~\$290~~] **\$175** for nonresident applicants.

(2) Applications shall be in such form and contain such information as the State Department of Fish and Wildlife, by rule, may prescribe.

SECTION 9. ORS 508.941 is amended to read:

508.941. (1) The system established under ORS 508.921 shall include any other provisions for participation that the State Fish and Wildlife Commission considers appropriate.

(2) Any determination by the commission regarding the eligibility of a vessel to participate in the ocean Dungeness crab commercial fishery or to transfer participation rights is subject to review by the Commercial Fishery Permit Board, in accordance with ORS chapter 183. The board may waive the eligibility requirements contained in ORS 508.931 if the board finds that the individual fails to meet the requirements as the result of illness, fire, sinking, accident or other circumstances beyond the individual's control. In making a determination of eligibility under this section, the board shall consider the applicant's history of participation in the Oregon ocean Dungeness crab fishery. If a vessel for which application is made is owned by a person who has served in the Armed Forces of the United States and the person establishes that a service-related disability prevented the person from lawfully landing crab in two seasons during the prescribed time period, there is a rebuttable presumption in favor of issuing an illness waiver for one of the two seasons of lawfully landing crab in Oregon required under ORS 508.931 so as to require the landing of crab in only one season during the prescribed time period. The rebuttable presumption created by this subsection may be overcome only by clear and convincing evidence that the service-related disability of the person did not prevent the person from lawfully landing crab in two seasons during the prescribed time period. Orders issued by the board are not subject to review by the commission, but may be appealed as provided in ORS 183.480 to 183.540.

(3) A commercial fishing vessel that holds a valid Washington or California permit to fish for ocean Dungeness crab shall be eligible to participate in the Oregon ocean Dungeness crab fishery provided there is reciprocal statutory authority in Washington or California that provides for equal access for vessels holding Oregon ocean Dungeness crab permits to Washington or California coastal waters and Washington waters of the Columbia River. If such reciprocal statutory authority exists, a vessel licensed by Washington or California is eligible to participate in accordance with rules that establish reciprocal border agreements that recognize traditional fishing patterns.

(4) The annual fee to participate in the ocean Dungeness crab fishery is:

- (a) \$125 for resident applicants.
- (b) [~~\$290~~] **\$175** for nonresident applicants.

SECTION 10. The amendments to ORS 508.235, 508.285, 508.760, 508.765, 508.790, 508.816, 508.858, 508.901 and 508.941 by sections 1 to 9 of this 2011 Act apply to license, permit and participation fees paid on or after the effective date of this 2011 Act for calendar year 2012 and subsequent calendar years.

SECTION 11. This 2011 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect on its passage.

Passed by House June 22, 2011

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Ramona Kenady Line, Chief Clerk of House

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Bruce Hanna, Speaker of House

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Arnie Roblan, Speaker of House

Passed by Senate June 24, 2011

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Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2011

Approved:

.....M,....., 2011

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M,....., 2011

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Kate Brown, Secretary of State