

AN ACT Relating to investing in the economy of the state of Washington by creating a mechanism to enhance the production of Pacific salmon in waters located east of Cape Flattery and subject to the agreements made by the state government, the federal government, and tribal governments relating to the cooperative management of the resource; Amending

- **RCW 82.27.010, RCW 82.27.030, RCW 82.27.050, RCW 82.27.060, RCW 82.27.070, and RCW 77.12.459;**
- Adding a new section to Chapter 82.27 **RCW;**
- Adding new sections to Chapter 77.95 **RCW;**
- Creating a new section; and providing an expiration date.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

Sec. 1. RCW 82.27.010 and 1995 c 372 s 4 are each amended to read as follows:

As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Enhanced food fish" includes all species of food fish, except all species of tuna, mackerel, and jack; shellfish; and anadromous game fish, including by-products and parts thereof, originating within the territorial and adjacent waters of Washington and salmon originating from within the territorial and adjacent waters of Oregon, Washington, and British Columbia, and all troll-caught Chinook salmon originating from within the territorial and adjacent waters of southeast Alaska. As used in this subsection, "adjacent" waters of Oregon, Washington, and Alaska are those comprising the United States fish conservation zone; "adjacent" waters of British Columbia are those comprising the Canadian two hundred mile exclusive economic zone; and "southeast Alaska" means that portion of Alaska south and east of Cape Suckling to the Canadian border. For purposes of this chapter, point of origination is established by a document, which identifies the product and state, or province in which it originates, including, but not limited to fish tickets, bills of lading, invoices, or other documentation required to be kept by governmental agencies.

(2) "Commercial" means related to or connected with buying, selling, bartering, or processing.

(3) "Possession" means the control of enhanced food fish by the owner and includes both actual and constructive possession. Constructive possession occurs when the person has legal ownership but not actual possession of the enhanced food fish.

(4) "Anadromous game fish" means steelhead trout and anadromous Cutthroat trout and Dolly Varden char and includes by-products and also parts of anadromous game fish, whether fresh, frozen, canned, or otherwise.

(5) "Landed" means the act of physically placing enhanced food fish (a) on a tender in the territorial waters of Washington; or (b) on any land within or without the state of Washington including wharves, piers, or any such extensions therefrom.

(6) "Salmon" means all species of Pacific salmon, other than steelhead, from both wild stock or hatchery origins.

(7) "Puget Sound" has the same meaning as defined in RCW 90.71.010.

(8) "Assessment-qualifying catch" means all salmon caught in Puget Sound under a commercial license issued by the department of fish and wildlife and that is subject to the Puget Sound salmon enhancement assessment created in section 2 of this act.

NEW SECTION (Refers to the Department of Revenue). Sec. 2. A new section is added to chapter 82.27 RCW to read as follows:

(1) In addition to the excise tax on the commercial possession of enhanced food fish provided in RCW 82.27.020, there is also to be collected at the same time and, except as otherwise provided in this section, in the same manner a Puget Sound salmon enhancement assessment for all salmon caught in Puget Sound under a commercial license issued by the department of fish and wildlife.

(2) Except as otherwise provided in this section, the Puget Sound salmon enhancement assessment is five percent of the value of the salmon at the point of landing.

(3) (a) In instances when the harvester sells an assessment-qualifying catch to a fish buyer licensed under RCW 77.65.280, the fish buyer is responsible for collecting the entire Puget Sound salmon enhancement assessment. However, of the five percent of value collected, the harvester of the salmon must contribute one-half and the fish buyer must contribute one-half. The fish buyer must separately account for the portion of the assessment contributed by the harvester as a line item on the associated fish receiving ticket established under rules of the department of fish and wildlife and may not be simply deducted from the price paid to the harvester.

(b) In instances when a harvester exports the harvester's assessment-qualifying catch outside of Washington, or otherwise sells his or her catch to a party that is not a licensed fish buyer under RCW 77.65.280, the harvester is responsible for the entire Puget Sound salmon enhancement assessment.

(4) Where the assessment required by this section is to be collected by the fish buyer, the assessment is deemed to be held in trust by the fish buyer until paid to the department. Any buyer who appropriates or converts the assessment collected to the buyer's own use or to any use other

than the payment of the assessment to the extent that the money required to be collected is not available for payment on the due date as prescribed in this chapter is guilty of a gross misdemeanor.

(5) A buyer who fails to collect the assessment as required in this section or, having collected the assessment, fails to pay it to the department in the manner prescribed by this chapter, whether such failure is the result of buyer's own acts or the result of acts or conditions beyond the buyer's control, buyer is, nevertheless, personally liable to the state for the amount of the assessment.

Sec. 3. RCW 82.27.030 and 1995 2nd sp.s. c 7 s 1 are each amended to read as follows:

The tax imposed by RCW 82.27.020 and the assessment imposed by section 2 of this act shall not apply to: **(1)** Enhanced food fish originating outside the state which enters the state as

(a) Frozen enhanced food fish or **(b)** Enhanced food fish packaged for retail sales;

(2) The growing, processing, or dealing with food fish or shellfish which are raised from eggs, fry, or larvae and which are under the physical control of the grower at all times until being sold or harvested;

(3) Food fish, shellfish, anadromous game fish, and by-products or parts of food fish shipped from outside the state which enter the state, except as provided in RCW 82.27.010, provided the taxpayer must have documentation showing shipping origination of fish exempt under this subsection to qualify for exemption. Such documentation includes, but is not limited to; fish tickets, bills of lading, invoices, or other documentation required to be kept by governmental agencies.

Sec. 4. RCW 82.27.050 and 1980 c 98 s 5 are each amended to read as follows:

All of the provisions of chapters 82.02 and 82.32 RCW shall be applicable and have full force and effect with respect to taxes and assessments imposed under this chapter. The meaning attributed to words and phrases in chapter 82.04 RCW, insofar as applicable, shall have full force and effect with respect to taxes imposed under this chapter.

Sec. 5. RCW 82.27.060 and 2006 c 256 s 3 are each amended to read as follows:

The taxes and assessments levied by this chapter shall be due for payment monthly and remittance therefor shall be made within twenty-five days after the end of the month in which the taxable activity occurs. The taxpayer on or before the due date shall make out a signed return, setting out such information as the department of revenue may require, including the gross measure of the tax, any deductions, credits, or exemptions claimed, and the amount of tax due for the preceding monthly period, which amount shall be transmitted to the department along with the return.

The department may relieve any taxpayer from the obligation of filing a monthly return and may require the return to cover other periods, but in no event may periodic returns be filed for a period greater than one year. In such cases tax payments are due on or before the last day of the month next succeeding the end of the period covered by the return.

Sec. 6. RCW 82.27.070 and 2010 c 193 s 17 are each amended to read as follows:

(1) All taxes collected by the department of revenue under this chapter shall be deposited in the state general fund **except for:**

(a) The excise tax on anadromous game fish, which shall be deposited in the state wildlife account; and

(b) The Puget Sound salmon enhancement assessment collected under section 2 of this act, which must be deposited in the salmon enhancement assessment account created in section 7 of this act.

(2) From January 1, 2000, to December 31, 2013, or until the department of fish and wildlife notifies the department that the license reduction goals of the sea urchin or sea cucumber fishery have been met, whichever occurs first, twenty-five forty-sixths of the revenues derived from the excise tax on sea urchins collected under RCW 82.27.020 shall be deposited into the sea urchin dive fishery account created in RCW 77.70.150, and twenty-five forty-sixths of the revenues derived from the excise tax on sea cucumbers collected under RCW 82.27.020 shall be deposited into the sea cucumber dive fishery account created in RCW 77.70.190.

NEW SECTION (Refers to the Recreation and Conservation Office). Sec. 7. A new section is added to chapter 79A.25 RCW to read as follows:

(1) The salmon enhancement assessment account is created in the custody of the state treasurer. All receipts from the Puget Sound salmon enhancement assessment collected under section 2 of this act must be deposited into the account. Expenditures from the account may only be used in a manner consistent with section 8 of this act. Only the director or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(2) In addition to receipts from the Puget Sound salmon enhancement assessment collected under section 2 of this act, the salmon enhancement assessment account may receive voluntary assessments donated by tribal fishers or other donations made for the purposes of salmon enhancement.

NEW SECTION (Refers to the Recreation and Conservation Office). Sec. 8. A new section is added to chapter 79A.25 RCW to read as follows:

(1) The director must identify one qualifying organization to partner with the office in order to enhance the harvest opportunities for salmon and to undertake salmon enhancement projects. The qualifying organization must be a private, not-for-profit organization, that has salmon enhancement activities as an organizational mission and can demonstrate that the composition of its board of directors proportionately reflects anticipated assessment contributions by fishers and processors who must pay Puget Sound salmon enhancement assessments under section 2 of this act.

(2) The director must provide as a noncompetitive grant all revenue deposited by the department of revenue into the salmon enhancement assessment account created in section 7 of this act to the qualifying organization. However, the director may retain up to ten percent of the revenue to defray the office's actual costs in administering the partnership required under this section.

(3) (a) Salmon enhancement projects undertaken by the qualifying organization and funded by grants from the salmon enhancement assessment account may include the operation of hatcheries and other projects designed to increase the production of Pacific salmon. Unless otherwise specifically authorized by the office, all salmon enhancement projects funded through grants under this section must be located within Puget Sound, as that term is defined in RCW 90.71.010.

(b) The authority to use grant money for the operation of hatcheries is to be interpreted broadly to include all activities that support the operation of Pacific salmon. This includes the harvest of broodstock, the incubation of eggs, the rearing of smolts, the release of fry, and associated research and educational activities. All hatchery operation enhancement projects must be carried out by the qualifying organization consistent with all state laws relating to hatchery salmon production and release.

Sec. 9. (Refers to the Department of Fish and Wildlife) RCW 77.12.459 and 1998 c 190 s 74 are each amended to read as follows:

(1) Except as otherwise provided in this section, a person other than the United States, an Indian tribe recognized as such by the federal government, the state, a subdivision of the state, or a municipal corporation or an agency of such a unit of government shall not release salmon or steelhead trout into the public waters of the state and subsequently to recapture and commercially harvest such salmon or trout.

(2) This section shall not prevent:

(a) Any person from rearing salmon or steelhead trout in pens or in a confined area under circumstances where the salmon or steelhead trout are confined and never permitted to swim freely in open water; or

(b) Any qualifying organization partnering with the recreation and conservation office for salmon enhancement under section 8 of this act from operating a salmon hatchery and releasing salmon for subsequent recapture and commercial harvest consistent with other provisions of state law relating to hatchery salmon production, release, and commercial harvest.

NEW SECTION. Sec. 10. The legislature recognizes the important role of, and projects undertaken by, regional fisheries enhancement groups authorized under RCW 77.95.060 and finds that nothing in this act affects regional fisheries enhancement groups funding, including funding from the sale of hatchery surplus salmon carcasses and eggs.

NEW SECTION. Sec. 11. *Sections 1 through 10 of this act expire December 31, 2018.*