

Individual State Agency Fiscal Note

Bill Number: 6317 SB	Title: Commercial fishing fees	Agency: 477-Department of Fish and Wildlife
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Part I: Estimates

☐ No Fiscal Impact

Estimated Cash Receipts to:

ACCOUNT		FY 2018	FY 2019	2017-19	2019-21	2021-23
State Wildlife Account-State	104-1		43,113	43,113	172,450	172,450
	Total \$		43,113	43,113	172,450	172,450

Estimated Expenditures from:

NONE

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- ☒ If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- ☐ If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- ☐ Capital budget impact, complete Part IV.
- ☐ Requires new rule making, complete Part V.

Legislative Contact:	Phone:	Date: 01/11/2018
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Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

Section 1 amends RCW 77.65.150 by adjusting the following license fees:

- Non-salmon charter: non-resident is increased from \$450 to \$760;
- Salmon charter: non-resident is increased from \$535 to \$845.

Section 2 amends RCW 77.65.160 by adjusting the following license fees:

- Salmon Gill Net—Grays Harbor-Columbia river: non-resident is increased from \$455 to \$765;
- Salmon Gill Net—Puget Sound: non-resident is increased from \$455 to \$765;
- Salmon Gill Net—Willapa Bay-Columbia river: non-resident is increased from \$455 to \$765;
- Salmon purse seine: non-resident is increased from \$620 to \$930;
- Salmon reef net: non-resident is increased from \$455 to \$765;
- Salmon troll: non-resident is increased from \$455 to \$765.

Section 3 amends RCW 77.65.170 by adjusting the following license fee:

- Salmon delivery license: non-resident is increased from \$505 to \$815.

Section 4 amends RCW 77.65.190 by adjusting the following license fee:

- Emergency salmon delivery: non-resident is increased from \$350 to \$660.

Section 5 amends RCW 77.65.200 by adjusting the following license fees:

- Baitfish Lampara: non-resident is increased from \$410 to \$720;
- Baitfish purse seine: non-resident is increased from \$655 to \$765;
- Bottom fish jig: non-resident is increased from \$255 to \$565;
- Bottom fish pot: non-resident is increased from \$255 to \$565;
- Bottom fish troll: non-resident is increased from \$255 to \$565;
- Carp: non-resident is increased from \$255 to \$565;
- Columbia river smelt: non-resident is increased from \$505 to \$815;
- Emerging commercial fishery: non-resident is increased from \$410 to \$720;
- Food fish drag seine: non-resident is increased from \$255 to \$565;
- Food fish set line: non-resident is increased from \$255 to \$565;
- Herring dip bag net: non-resident is increased from \$400 to \$710;
- Herring drag seine: non-resident is increased from \$400 to \$710;
- Herring gill net: non-resident is increased from \$400 to \$710;
- Herring Lampara: non-resident is increased from \$400 to \$710;
- Herring purse seine: non-resident is increased from \$400 to \$710;
- Sardine purse seine: non-resident is increased from \$410 to \$720;
- Sardine purse seine temporary: non-resident is increased from \$410 to \$720;
- Smelt dip bag net: non-resident is increased from \$255 to \$565;
- Smelt gill net: non-resident is increased from \$505 to \$815;
- Whiting-Puget Sound: non-resident is increased from \$420 to \$730.

Section 6 amends RCW 77.65.210 by adjusting the following license fee:

- Nonlimited entry delivery: non-resident is increased from \$335 to \$645.

Section 7 amends RCW 77.65.220 by adjusting the following license fees:

- Burrowing shrimp: non-resident is increased from \$310 to \$620;
- Crab ring net- Puget Sound: non-resident is increased from \$255 to \$565;
- Dungeness crab-coastal: non-resident is increased from \$420 to \$730;
- Dungeness crab- Puget Sound: non-resident is increased from \$255 to \$565;
- Emerging commercial fishery: non-resident is increased from \$410 to \$720;
- Hardshell clam mechanical harvester: non-resident is increased from \$655 to \$965;
- Oyster reserve: non-resident is increased from \$255 to \$565;
- Razor clam: non-resident is increased from \$255 to \$565;
- Sea cucumber dive: non-resident is increased from \$355 to \$665;
- Sea urchin dive: non-resident is increased from \$355 to \$665;
- Shellfish dive: non-resident is increased from \$255 to \$565;
- Shellfish pot: non-resident is increased from \$255 to \$565;
- Shrimp pot- Puget Sound: non-resident is increased from \$410 to \$720;
- Shrimp trawl- Puget Sound: non-resident is increased from \$410 to \$720;
- Spot shrimp-coastal: non-resident is increased from \$410 to \$720;
- Squid: non-resident is increased from \$410 to \$720.

Section 8 amends RCW 77.65.280 by adjusting the following license fee:

- Fish dealer: non-resident is increased from \$475 to \$785.

Section 9 amends RCW 77.65.340 by adjusting the following license fee:

- Wholesale fish buyer: non-resident is increased from \$320 to \$630.

Section 10 amends RCW 77.65.390 by adjusting the following license fee:

- Ocean pink shrimp delivery: non-resident is increased from \$375 to \$685.

Section 11 amends RCW 77.65.440 by adjusting the following license fees:

- Alternate Operator: non-resident is increased from \$260 to \$570;
- Geoduck Diver: non-resident is increased from \$410 to \$740;
- Food Fish Guide: resident decreased from \$280 to \$210, and non-resident is increased from \$355 to \$595.

Section 12 amends RCW 77.65.480 by adjusting the following license fee:

- Game Fish Guide: resident decreased from \$410 to \$305, and non-resident is increased from \$485 to \$690.

Section 13 amends RCW 77.65.510 by adjusting the following license fee:

- Limited fish seller: non-resident is increased from \$145 to \$455.

Section 14 establishes an effective date of January 1, 2019.

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

Background and relevant history:

Last legislative session (2017), WDFW brought forward agency request legislation that made changes to the

Department's commercial fee structure that passed the legislature as ESHB 1597. In response to court proceedings in California which challenged the state's fee structure for commercial license fees, WDFW's agency request legislation eliminated the differential between resident and non-resident commercial fees to align with the court case and subsequent Ninth Circuit Federal Appeals Court ruling.

The plaintiffs in the California lawsuit argued that charging out of state commercial fishers more than resident commercial fishers was a violation of the Privileges and Immunities Clause of the US Constitution. In 2013, the Federal District Court agreed with the challengers and invalidated California's higher nonresident commercial fishing license fees. The state appealed, and in 2015, the Ninth Circuit Federal Court of Appeals upheld that ruling.

Subsequently, the state of California convinced the Ninth Circuit Court of Appeals to reconsider its decision. On December 21, 2016, an en banc panel of the Ninth Circuit ruled that differential fees were permissible provided certain criteria were met. The Court applied a formulaic approach to determine the maximum amount of fee differential a state could charge for nonresident licenses. The US Supreme Court denied review; thus the case stands.

Utilizing the court-approved approach, WDFW used data from the 2013-15 biennium (complete two-year record of both license sales and expenditures). The analysis indicated that Washington state could charge \$385 more for nonresident commercial licenses than residents. See Attachment 1 for the steps in the differential calculation. The bill passed the legislature as ESHB 1597 and the difference between resident and nonresident commercial fees was set at \$75.

This legislation makes changes to commercial license revenue based on information from the court proceedings in California and sets the differential between commercial resident and non-resident fees by \$385 per commercial license year (calendar year). See Attachment 2 for information on license changes and the effect on net revenue.

Attachment 2 details the changes for all affected commercial license types. Revenue from resident commercial license fees are reduced overall by \$22,155 per calendar year, and revenue from non-resident commercial licenses is increased by \$108,380. The net change to total commercial revenue from this legislation is estimated as \$86,225 per calendar year, and is the net revenue change used in this fiscal note.

While the majority of commercial license revenue is deposited in the state general fund at the end of a fiscal year pursuant to RCW 77.12.177 (amended by ESHB 1597) any increases to commercial revenue that occur after the passage of ESHB 1597 will be deposited in the State Wildlife Account as depicted in this fiscal note.

ASSUMPTIONS:

License quantity data is based on FY 2017 sales.

All revenue information described is for a full year and will be ongoing. Because the bill takes effect January 1, 2019 per Section 14, which is half-way through FY 2019, revenue for the first year is estimated at half that of future years.

This legislation makes changes to commercial fishing fees to establish a differential of \$385 for each license between resident and non-resident commercial licenses.

Section 1 generates net annual revenue of \$620. See Attachment 2 for how the net annual revenue is calculated.

Section 2 generates net annual revenue of \$13,020. See Attachment 2 for how the net annual revenue is calculated.

Section 5 generates net annual revenue of \$9,920. See Attachment 2 for how the net annual revenue is calculated.

Section 6 generates net annual revenue of \$30,690. See Attachment 2 for how the net annual revenue is calculated.

Section 7 generates net annual revenue of \$15,190. See Attachment 2 for how the net annual revenue is calculated.

Section 7 generates net annual revenue of \$15,190. See Attachment 2 for how the net annual revenue is calculated.

Section 8 generates net annual revenue of \$310. See Attachment 2 for how the net annual revenue is calculated.

Section 9 generates net annual revenue of \$310. See Attachment 2 for how the net annual revenue is calculated.

Section 10 generates net annual revenue of \$12,400. See Attachment 2 for how the net annual revenue is calculated.

Section 11 generates net annual revenue of \$14,970. See Attachment 2 for how the net annual revenue is calculated.

Section 12 decreases net annual revenue by \$11,205. See Attachment 2 for how the net annual revenue is calculated.

Note: The Fish and Wildlife Commission (Commission) has the authority to adopt rules under RCW 77.65.590 to create a Combination Guide License that includes both Game Fish Guide and Food Fish Guide licenses. As per the RCW, the cost of the Combination Guide License or licenses must be below a fee equal to the total cost of the individual licenses contained within the combination. If this legislation passes the Commission will engage in rulemaking to set the price of the Combination Guide License under the requirements in RCW 77.65.590. The new price for the Combination Guide License will reduce the revenue depicted in this note.

II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

WDFW intends to spend the new annual license revenue generated by this bill to support current commercial fish management activities. Because this bill does not direct WDFW to do work, this fiscal note does not include a description of these expenditures.

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

NONE

Part IV: Capital Budget Impact

No capital budget impact.

Part V: New Rule Making Required

Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.

The Fish and Wildlife Commission (Commission) has the authority to adopt rules under RCW 77.65.590 to create a Combination Guide License to that would include both Game Fish Guide and Food Fish Guide licenses. As per the RCW the cost of the Combination Guide License or licenses must be below a fee equal to the total cost of the individual licenses contained within the combination. If this legislation passes, the Commission will engage in rulemaking to adjust the price for the Combination Guide License. This rulemaking will be conducted under regular Commission rulemaking. No fiscal impact from rulemaking.

Table 1
SB 6317, WDFW
Commercial License Fee differential equation (resident v. non-resident)
1/16/2018

Step	Calculation	Description		Results
Step 1	Identify A	A	Total agency Commercial Fish Program expenditures (\$)	\$9,607,488
Step 2	$B = C + D$	B	Total agency Commercial Fish Program revenue (\$)	\$4,456,705
	$A - B = \text{subsidy } (\$)$	subsidy =		\$5,150,783
		C	Total fees from commercial fishers (\$)	\$1,083,400
		C1	Number of commercial fishing licenses (Res)	2,838
		C2	Number of commercial fishing licenses (Non-Res)	411
		D	Other commercial fees and taxes (\$)	Excise tax = \$3,098,332
			Non-fishing revenue: fees for buyers, dealers, etc. =	\$274,973
	$E = C/B$	E	Percent revenue from commercial fishing (%)	24.31%
Step 3	$F = \text{subsidy} \times E$	F	Commercial fishing subsidy share (\$)	\$1,252,126
Step 4	$G = C2/(C1 + C2)$	G	Non-Resident share of commercial fishing (%)	12.65%
	$H = F \times G$	H	Non-Resident share of subsidy (\$)	\$158,395
	$I = H/C2$	I	Average Non-Resident fee/person	\$385

Fiscal Note SB 6317, WDFW

Commerical Fishing License Fee Changes

Attachment 2: Individual License Changes 1/20/2018

										NET CHANGES				
Section	License	Application Fee	Current Resident Fee	Resident Quantity	Current Nonresident Fee	Non-resident Quantity	Current Fee Revenue (R+NR)	Proposed Resident Fee	Proposed Nonresident Fee	Proposed Resident Fee Change Revenue	Proposed Nonresident Fee Change Revenue	Net New Revenue (R + NR)	Proposed Resident Out-the-Door Total	Proposed Nonresident Out-the-Door Total
1	Non-salmon charter ^B	\$70	\$375	28	\$455		\$10,500	\$375	\$760	\$0	\$0	\$0	\$480	\$865
1	Salmon charter ^{B, C}	\$105	\$460	108	\$535	2	\$50,750	\$460	\$845	\$0	\$620	\$620	\$700	\$1,085
1	Salmon angler	\$0	\$0	2	\$0	N/A	\$0	\$0	\$0	N/A	N/A	N/A	\$0	\$0
2	Salmon Gill Net–Grays Harbor–Col R ^C	\$105	\$380	40	\$455	2	\$16,110	\$380	\$765	\$0	\$620	\$620	\$585	\$970
2	Salmon Gill Net–Puget Sound ^C	\$105	\$380	158	\$455	1	\$60,495	\$380	\$765	\$0	\$310	\$310	\$585	\$970
2	Salmon Gill Net–Willapa Bay–Col R ^C	\$105	\$380	113	\$455	10	\$47,490	\$380	\$765	\$0	\$3,100	\$3,100	\$585	\$970
2	Salmon Purse Seine ^C	\$105	\$545	69	\$620	6	\$41,325	\$545	\$930	\$0	\$1,860	\$1,860	\$750	\$1,135
2	Salmon Reef Net ^C	\$105	\$380	10	\$455		\$3,800	\$380	\$765	\$0	\$0	\$0	\$585	\$970
2	Salmon Troll ^C	\$105	\$380	115	\$455	23	\$54,165	\$380	\$765	\$0	\$7,130	\$7,130	\$585	\$970
3	Salmon Delivery License ^C	\$105	\$430	3	\$455		\$1,290	\$430	\$815	\$0	\$0	\$0	\$635	\$1,020
4	Emergency Salmon Delivery License	\$105	\$275		\$350		\$0	\$275	\$660	\$0	\$0	\$0	\$380	\$765
5	Baitfish Lampara	\$70	\$335	8	\$410	22	\$11,700	\$335	\$720	\$0	\$6,820	\$6,820	\$405	\$790
5	Baitfish Purse Seine	\$70	\$380	4	\$410		\$1,520	\$380	\$765	\$0	\$0	\$0	\$450	\$835
5	Bottom Fish Jig	\$70	\$180		\$255		\$0	\$180	\$565	\$0	\$0	\$0	\$250	\$635
5	Bottom Fish Pot	\$70	\$180		\$255		\$0	\$180	\$565	\$0	\$0	\$0	\$250	\$635
5	Bottom Fish Troll	\$70	\$180		\$255		\$0	\$180	\$565	\$0	\$0	\$0	\$250	\$635
5	Carp	\$70	\$180	1	\$255	5	\$1,455	\$180	\$565	\$0	\$1,550	\$1,550	\$250	\$635
5	Columbia River Smelt	\$70	\$430	1	\$505		\$430	\$430	\$815	\$0	\$0	\$0	\$500	\$885
5	Dog Fish Set Net (eliminated)	\$70	\$130		\$185		\$0	\$0	\$0	\$0	\$0	\$0	elim.	elim.
5	Emerging Commercial Fishery	\$105	\$335	18	\$410	3	\$7,260	\$335	\$720	\$0	\$930	\$930	\$440	\$825
5	Food Fish Drag Seine	\$70	\$180	8	\$255		\$1,440	\$180	\$565	\$0	\$0	\$0	\$250	\$635
5	Food Fish Set Line	\$70	\$180		\$255		\$0	\$180	\$565	\$0	\$0	\$0	\$250	\$635
5	Food Fish Trawl–Non-Puget Sound (elim)	\$70	\$240		\$405		\$0	\$0	\$0	\$0	\$0	\$0	elim.	elim.
5	Food Fish Trawl–Puget Sound (elim)	\$70	\$185	0	\$295	0	\$0	\$0	\$0	\$0	\$0	\$0	elim.	elim.
5	Herring Dip Bag Net	\$70	\$325	12	\$400		\$3,900	\$325	\$710	\$0	\$0	\$0	\$395	\$780
5	Herring Drag Seine	\$70	\$325	2	\$400		\$650	\$325	\$710	\$0	\$0	\$0	\$395	\$780
5	Herring Gill Net	\$105	\$325		\$400		\$0	\$325	\$710	\$0	\$0	\$0	\$430	\$815
5	Herring Lampara	\$70	\$325	15	\$400		\$4,875	\$325	\$710	\$0	\$0	\$0	\$395	\$780
5	Herring Purse Seine	\$105	\$325	1	\$400		\$325	\$325	\$710	\$0	\$0	\$0	\$430	\$815
5	Herring Spawn-on-Kelp	N/A	N/A		N/A		\$0	N/A	N/A	\$0	\$0	\$0	\$0	\$0
5	Sardine Purse Seine	\$105	\$335		\$410		\$0	\$335	\$720	\$0	\$0	\$0	\$440	\$825
5	Sardine Purse Seine–Temporary	\$105	\$335	6	\$410	2	\$2,830	\$335	\$720	\$0	\$620	\$620	\$440	\$825
5	Smelt Dip Bag Net	\$70	\$180		\$255		\$0	\$180	\$565	\$0	\$0	\$0	\$250	\$635
5	Smelt Gill Net	\$70	\$430		\$505		\$0	\$430	\$815	\$0	\$0	\$0	\$500	\$885
5	Whiting Puget Sound	\$105	\$345		\$420		\$0	\$345	\$730	\$0	\$0	\$0	\$450	\$835
6	Nonlimited Entry Delivery License ^B	\$105	\$260	136	\$335	99	\$68,525	\$260	\$645	\$0	\$30,690	\$30,690	\$400	\$785

Section	License	Application Fee	Current Resident Fee	Resident Quantity	Current Nonresident Fee	Non-resident Quantity	Current Fee Revenue (R+NR)	Proposed Resident Fee	Proposed Nonresident Fee	Proposed Resident Fee Change Revenue	Proposed Nonresident Fee Change Revenue	Net New Revenue (R + NR)	Proposed Resident Out-the-Door Total	Proposed Nonresident Out-the-Door Total
7	Burrowing Shrimp	\$105	\$235	4	\$310		\$940	\$235	\$620	\$0	\$0	\$0	\$340	\$725
7	Crab Ring Net–Non Puget Sound (elim.)	\$70	\$130		\$185		\$0	\$0	\$0	\$0	\$0	\$0	elim.	elim.
7	Crab Ring Net–Puget Sound	\$70	\$180		\$255		\$0	\$180	\$565	\$0	\$0	\$0	\$250	\$635
7	Dungeness Crab Coastal	\$105	\$345	156	\$420	27	\$65,160	\$345	\$730	\$0	\$8,370	\$8,370	\$570	\$955
7	Dungeness Crab Coastal, B License (elim.)	\$105	\$295		\$520		\$0	\$0	\$0	\$0	\$0	\$0	\$105	\$105
7	Dungeness Crab–Puget Sound	\$105	\$180	202	\$255	8	\$38,400	\$180	\$565	\$0	\$2,480	\$2,480	\$285	\$670
7	Emerging Commercial Fishery	\$105	\$335		\$410		\$0	\$335	\$720	\$0	\$0	\$0	\$440	\$825
7	Hardshell Clam Mechanical	\$70	\$580		\$655		\$0	\$580	\$965	\$0	\$0	\$0	\$650	\$1,035
7	Oyster Reserve	\$70	\$180	7	\$255		\$1,260	\$180	\$565	\$0	\$0	\$0	\$250	\$635
7	Razor Clam	\$105	\$180		\$255		\$0	\$180	\$565	\$0	\$0	\$0	\$285	\$670
7	Sea Cucumber Dive	\$105	\$280	17	\$355	3	\$5,825	\$280	\$665	\$0	\$930	\$930	\$385	\$770
7	Sea Urchin Dive	\$105	\$280	19	\$355	2	\$6,030	\$280	\$665	\$0	\$620	\$620	\$385	\$770
7	Shellfish Dive	\$70	\$180	8	\$255	1	\$1,695	\$180	\$565	\$0	\$310	\$310	\$250	\$635
7	Shellfish Pot	\$70	\$180	15	\$255	5	\$3,975	\$180	\$565	\$0	\$1,550	\$1,550	\$250	\$635
7	Shrimp Pot–Puget Sound	\$105	\$335	14	\$410	2	\$5,510	\$335	\$720	\$0	\$620	\$620	\$440	\$825
7	Shrimp Trawl–Non Puget Sound (elim.)	\$105	\$335		\$410		\$0	\$0	\$0	\$0	\$0	\$0	elim.	elim.
7	Shrimp Trawl–Puget Sound	\$105	\$335	5	\$410		\$1,675	\$335	\$720	\$0	\$0	\$0	\$440	\$825
7	Spot Shrimp–Coastal	\$70	\$335		\$410		\$0	\$335	\$720	\$0	\$0	\$0	\$405	\$790
7	Coast Prawn	\$70	\$335	5	\$410	1	\$2,085	\$335	\$720	\$0	\$310	\$310	\$405	\$790
7	Squid	\$70	\$335	3	\$410		\$1,005	\$335	\$720	\$0	\$0	\$0	\$405	\$790
8	Fish Dealer	\$105	\$400	384	\$475	1	\$154,075	\$400	\$785	\$0	\$310	\$310	\$505	\$890
9	Wholesale Fish Buyer	\$105	\$245	392	\$320	1	\$96,360	\$245	\$630	\$0	\$310	\$310	\$350	\$735
10	Ocean Pink Shrimp Delivery License	\$105	\$300	23	\$375	40	\$21,900	\$300	\$685	\$0	\$12,400	\$12,400	\$405	\$790
11	Alternate Operator	\$70	\$185	575	\$260	48	\$118,855	\$185	\$570	\$0	\$14,880	\$14,880	\$255	\$640
11	Geoduck Diver	\$70	\$355	57	\$410	6	\$22,695	\$355	\$740	\$0	\$1,980	\$1,980	\$425	\$810
11	Food Fish Guide ^D	\$70	\$280	51	\$355	7	\$16,765	\$210	\$595	-\$3,570	\$1,680	-\$1,890	\$300	\$765
12	Game Fish Guide	\$70	\$410	177	\$485	36	\$90,030	\$305	\$690	-\$18,585	\$7,380	-\$11,205	\$375	\$760
13	Limited Fish Seller Endorsement	\$105	\$70		\$145		\$0	\$70	\$455	\$0	\$0	\$0	\$175	\$560

-\$22,155 \$108,380
Net revenue change | \$86,225

NOTES

- B These three licenses include the \$35 rockfish surcharge (77.65.210, 77.65.150); included in the out-the-door totals.
- C These eight licenses include the \$100 enhancement surcharge (77.65.150, 77.65.160); included in the out-the-door totals.
- D This license includes the \$20/\$100 for Res/Nonres for the anadromous surcharge (77.65.440); included in the out-the-door total.