
SECOND SUBSTITUTE HOUSE BILL 2220

State of Washington 60th Legislature 2007 Regular Session

By House Committee on Appropriations (originally sponsored by Representative Lantz)

READ FIRST TIME 03/05/07.

1 AN ACT Relating to shellfish; amending RCW 79.135.100; adding new
2 sections to chapter 28B.20 RCW; and creating new sections.

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

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 28B.20 RCW
5 to read as follows:

6 (1) The sea grant program at the University of Washington shall,
7 consistent with this section, commission a series of scientific
8 research studies that examines the possible effects, including the
9 cumulative effects, of the current prevalent geoduck aquaculture
10 techniques and practices on the natural environment in and around Puget
11 Sound, including the Strait of Juan de Fuca. The sea grant program
12 shall use funding provided from the geoduck aquaculture research
13 account created in section 2 of this act to review existing literature,
14 directly perform research identified as needed, or to enter into and
15 manage contracts with scientific organizations or institutions to
16 accomplish these results.

17 (2) Prior to entering into a contract with a scientific
18 organization or institution, the sea grant program must:

1 (a) Analyze, through peer review, the credibility of the proposed
2 party to the contract, including whether the party has credible
3 experience and knowledge and has access to the facilities necessary to
4 fully execute the research required by the contract; and

5 (b) Require that all proposed parties to a contract fully disclose
6 any past, present, or planned future personal or professional
7 connections with the shellfish industry or public interest groups.

8 (3) All research commissioned under this section must be subjected
9 to a rigorous peer review process prior to being accepted and reported
10 by the sea grant program.

11 (4) In prioritizing and directing research under this section, the
12 sea grant program shall meet with the department of ecology at least
13 annually and rely on guidance submitted by the department of ecology.
14 The department of ecology shall convene the shellfish aquaculture
15 regulatory committee created in section 4 of this act as necessary to
16 serve as an oversight committee to formulate the guidance provided to
17 the sea grant program. The objective of the oversight committee, and
18 the resulting guidance provided to the sea grant program, is to ensure
19 that the research required under this section satisfies the planning,
20 permitting, and data management needs of the state, to assist in the
21 prioritization of research given limited funding, and to help identify
22 any research that is beneficial to complete other than what is listed
23 in subsection (5) of this section.

24 (5) To satisfy the minimum requirements of subsection (1) of this
25 section, the sea grant program shall review all scientific research
26 that is existing or in progress that examines the possible effect of
27 currently prevalent shellfish practices, including geoduck practices,
28 on the natural environment, and prioritize and conduct new studies as
29 needed, to measure and assess the following:

30 (a) The environmental effects of structures commonly used in the
31 aquaculture industry to protect juvenile geoducks from predation;

32 (b) The environmental effects of commercial harvesting of geoducks
33 from intertidal geoduck beds, focusing on current prevalent harvesting
34 techniques, including a review of the recovery rates for benthic
35 communities after harvest;

36 (c) The extent to which geoducks in standard aquaculture tracts
37 alter the ecological characteristics of overlying waters while the

1 tracts are submerged, including impacts on species diversity, and the
2 abundance of other benthic organisms;

3 (d) Baseline information regarding naturally existing parasites and
4 diseases in wild and cultured geoducks, including whether and to what
5 extent commercial intertidal geoduck aquaculture practices impact the
6 baseline;

7 (e) Genetic interactions between cultured and wild geoduck,
8 including measurements of differences between cultured geoducks and
9 wild geoducks in terms of genetics and reproductive status; and

10 (f) The impact of the use of sterile triploid geoducks and whether
11 triploid animals diminish the genetic interactions between wild and
12 cultured geoducks.

13 (6) If adequate funding is not made available for the completion of
14 all research required under this section, the sea grant program shall
15 consult with the shellfish aquaculture regulatory committee, via the
16 department of ecology, to prioritize which of the enumerated research
17 projects have the greatest cost/benefit ratio in terms of providing
18 information important for regulatory decisions; however, the study
19 identified in subsection (5)(b) of this section shall receive top
20 priority unless the sea grant program determines that an adequate study
21 addressing the issues identified in subsection (5)(b) of this section
22 has already been completed or is within six months of completion. The
23 prioritization process may include the addition of any new studies that
24 may be appropriate in addition to, or in place of, studies listed in
25 this section.

26 (7) When appropriate, all research commissioned under this section
27 must address localized and cumulative effects of geoduck aquaculture.

28 (8) The sea grant program and the University of Washington are
29 prohibited from retaining greater than fifteen percent of any funding
30 provided to implement this section for administrative overhead or other
31 deductions not directly associated with conducting the research
32 required by this section.

33 (9) Individual commissioned contracts under this section may
34 address single or multiple components listed for study under this
35 section.

36 (10) All research commissioned under this section must be completed
37 and the results reported to the appropriate committees of the
38 legislature by December 1, 2013. In addition, the sea grant program

1 shall provide the appropriate committees of the legislature with annual
2 reports updating the status and progress of the ongoing studies that
3 are completed in advance of the 2013 deadline.

4 NEW SECTION. **Sec. 2.** A new section is added to chapter 28B.20 RCW
5 to read as follows:

6 The geoduck aquaculture research account is created in the custody
7 of the state treasurer. All receipts from any legislative
8 appropriations directed to the account must be deposited in the
9 account. Expenditures from the account may only be used by the sea
10 grant program for the geoduck research projects identified by section
11 1 of this act. Only the president of the University of Washington or
12 the president's designee may authorize expenditures from the account.
13 The account is subject to the allotment procedures under chapter 43.88
14 RCW, but an appropriation is not required for expenditures.

15 **Sec. 3.** RCW 79.135.100 and 1984 c 221 s 10 are each amended to
16 read as follows:

17 (1) If state-owned aquatic lands are used for aquaculture
18 production or harvesting, rents and fees shall be established through
19 competitive bidding or negotiation.

20 (2) The department is prohibited from offering leases that would
21 permit the intertidal commercial aquaculture of geoducks on more than
22 twenty-five acres of state-owned aquatic lands a year until December 1,
23 2014. Any intertidal leases entered into by the department for geoduck
24 aquaculture must be conditioned in such a way that the department can
25 engage in monitoring of the environmental impacts of the lease's
26 execution, without unreasonably diminishing the economic viability of
27 the lease, and that the lease tracts are eligible to be made part of
28 the studies conducted under section 1 of this act.

29 NEW SECTION. **Sec. 4.** (1) The shellfish aquaculture regulatory
30 committee is established to, consistent with this section, serve as an
31 advisory body to the department of ecology on regulatory processes and
32 approvals for all current and new shellfish aquaculture activities, and
33 the activities conducted pursuant to RCW 90.58.060, as the activities
34 relate to shellfish. The shellfish aquaculture regulatory committee is

1 advisory in nature, and no vote or action of the committee may overrule
2 existing statutes, regulations, or local ordinances.

3 (2) The shellfish aquaculture regulatory committee shall develop
4 recommendations as to:

5 (a) A regulatory system or permit process for all current and new
6 shellfish aquaculture projects and activities that integrates all
7 applicable existing local, state, and federal regulations and is
8 efficient both for the regulators and the regulated; and

9 (b) Appropriate guidelines for geoduck aquaculture operations to be
10 included in shoreline master programs under section 5 of this act.

11 (3)(a) The members of the shellfish aquaculture regulatory
12 committee shall be appointed by the director of the department of
13 ecology as follows:

14 (i) Two representatives of county government, one from a county
15 located on the Puget Sound, and one from a county located on the
16 Pacific Ocean;

17 (ii) Two individuals who are professionally engaged in the
18 commercial aquaculture of shellfish, one who owns or operates an
19 aquatic farm in Puget Sound, and one who owns or operates an aquatic
20 farm in state waters other than the Puget Sound;

21 (iii) Two representatives of organizations representing the
22 environmental community;

23 (iv) Two individuals who own shoreline property, one of which does
24 not have a commercial geoduck operation on his or her property and one
25 of which who does have a commercial geoduck operation on his or her
26 property; and

27 (v) One representative each from the following state agencies: The
28 department of ecology, the department of fish and wildlife, the
29 department of agriculture, and the department of natural resources.

30 (b) In addition to the other participants listed in this
31 subsection, the governor shall invite the full participation of two
32 tribal governments, at least one of which is located within the
33 drainage of the Puget Sound.

34 (4) The department of ecology shall provide administrative and
35 clerical assistance to the shellfish aquaculture regulatory committee
36 and all agencies listed in subsection (3) of this section shall provide
37 technical assistance.

1 (5) Nonagency members of the shellfish aquaculture regulatory
2 committee will not be compensated, but are entitled to be reimbursed
3 for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

4 (6) Any participation by a Native American tribe on the shellfish
5 aquaculture regulatory committee shall not, under any circumstances, be
6 viewed as an admission by the tribe that any of its activities, or
7 those of its members, are subject to any of the statutes, regulations,
8 ordinances, standards, or permit systems reviewed, considered, or
9 proposed by the committee.

10 (7) The shellfish aquaculture regulatory committee is authorized to
11 form technical advisory panels as needed and appoint to them members
12 not on the shellfish aquaculture regulatory committee.

13 (8) The department of ecology shall report the recommendations and
14 findings of the shellfish aquaculture regulatory committee to the
15 appropriate committees of the legislature by December 1, 2007, with a
16 further report, if necessary, by December 1, 2008.

17 NEW SECTION. **Sec. 5.** (1) The department of ecology shall develop,
18 by rule, guidelines for the appropriate siting and operation of geoduck
19 aquaculture operations to be included in any master program under this
20 section. The guidelines adopted under this section must be prepared
21 with the advice of the shellfish aquaculture regulatory committee
22 created in section 4 of this act, which shall serve as the advisory
23 committee for the development of the guidelines.

24 (2) The guidelines required under this section must be filed for
25 public review and comment no later than six months after the delivery
26 of the final report by the shellfish aquaculture regulatory committee
27 created in section 4 of this act.

28 (3) The department of ecology shall update the guidelines required
29 under this section, as necessary, after the completion of the geoduck
30 research by the sea grant program at the University of Washington
31 required under section 1 of this act.

32 NEW SECTION. **Sec. 6.** If specific funding for the purposes of this
33 act, referencing this act by bill or chapter number, is not provided by
34 June 30, 2007, in the omnibus appropriations act, this act is null and

1 void.

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