HOUSE BILL REPORT
HB 2554

As Reported By House Committee On:
Natural Resources

Title: An act relating to marine finfish aquaculture.

Brief Description: Requiring rules to regulate finfish aquaculture.

Sponsors: Representatives Anderson, Regala, Linville, Doumit, Buck and Rockefeller.

Brief History:
Committee Activity:
Natural Resources: 1/26/00, 2/4/00 [DPS].

Brief Summary of Substitute Bill

- Requires the Department of Fish and Wildlife to develop rules relating to Atlantic salmon marine aquatic farming.
- Requires persons engaged in Atlantic salmon marine aquatic farming to develop plans for the prevention of escapes of Atlantic salmon from marine enclosures, and to provide matching funds for the development of the department's rules.

HOUSE COMMITTEE ON NATURAL RESOURCES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Buck, Republican Co-Chair; Regala, Democratic Co-Chair; Anderson, Democratic Vice Chair; Sump, Republican Vice Chair; Doumit; Eickmeyer; Ericksen; Rockefeller and Stensen.

Minority Report: Do not pass. Signed by 3 members: Representatives G. Chandler; Clements and Pennington.

Staff: Josh Weiss (786-7129).

Background:

Aquaculture is defined as "The process of growing, farming, or cultivating private sector cultured aquatic products in marine or fresh waters and includes management by an aquatic farmer." Aquaculture products include oysters, clams, and finned fish. In Washington, commercial finned fish aquaculturists primarily raise Atlantic or coho salmon in Puget Sound. Salmon are initially hatched and reared in a freshwater environment until they are smolts - ready for the marine environment. The smolts are transferred to net pens, and are held in net enclosures until reaching marketable size.

The Department of Fish and Wildlife is responsible for administering an aquaculture disease control program. The director of the Department of Agriculture must approve this program prior to its implementation. All aquatic farmers are required to register with the Department of Fish and Wildlife.

The Department of Agriculture is responsible for developing and implementing a program to assist the state's aquaculture industry in marketing and promoting the use of its products.

Under the federal Clean Water Act, National Pollution Discharge Elimination System (NPDES) permits are required for waste discharges from all upland finned fish and net pen facilities that produce more than 20,000 pounds of fish annually. The Department of Ecology (DOE) administers this permitting process. Under current state law, commercial or industrial net pen facilities must obtain a state discharge permit if discharging waste into waters of the state, regardless of size.

With the listing of several salmon stocks under the Endangered Species Act, concerns over the escape of Atlantic salmon from net pen facilities have risen. In Washington there have been annual releases of 107,000 fish in 1996; 369,000 in 1997; and 115,000 in 1999. On nearby Vancouver Island, naturally produced Atlantic salmon were found in streams, though there is still no evidence that escaped Atlantic salmon are capable of successfully producing offspring in the wild.

Summary of Substitute Bill:

The director of the Department of Fish and Wildlife is required to develop, implement, and enforce rules relating to Atlantic salmon marine aquatic farming. These rules must include provisions for: 1) the prevention of escapes; 2) the development of management plans to prevent the escape of Atlantic salmon from marine enclosures; 3) the eradication of Atlantic salmon that have escaped; 4) the development of management practices based on the most current, accurate, and complete scientific and technical information; and 5) the development of an Atlantic salmon watch monitoring program.

The director of the department must report to the Legislature by December 1, 2000, on procedures and proposed funding methods for observers and unannounced inspections of

Atlantic salmon marine aquatic locations. The report must also include scientific and technical information on the use of triploid and female stocks of Atlantic salmon.

The director of the Department of Fish and Wildlife must investigate the approval of an antifoulant for the prevention of the build up of marine organisms on net pens, and must approve for use an antifoulant that has been approved by the United States Environmental Protection Agency.

Persons engaged in Atlantic salmon marine aquatic farming must develop and implement written plans for the prevention of Atlantic salmon escapes, and for the recapture of escapes.
Persons engaged in Atlantic salmon marine aquatic farming are required to provide up to $35,000 per year in matching funds for the implementation of the department's requirements under the act.

Substitute Bill Compared to Original Bill: The substitute bill is narrowed from all marine finfish aquaculture to Atlantic salmon marine aquatic farming. Unneeded definitions are eliminated, and a definition of "marine aquatic farming location" is provided. The substitute bill eliminates some of the department's rulemaking and implementation requirements including: 1) the requirement that the department identify appropriate species and stocks for aquatic farming; 2) replacing a reference to "latest available science" with "the most current, accurate, and complete scientific and technical information available"; 3) bonding and unannounced inspection requirements; and 4) required operating procedures.

The substitute bill provides additional requirements for the department, including a report to the Legislature by December 1, 2000, on procedures and proposed funding methods for observers and unannounced inspections of Atlantic salmon marine aquatic locations. The report must also include scientific and technical information on the use of triploid and female stocks of Atlantic salmon.

The original bill required the department to approve an antifoulant for the prevention of the buildup of marine organisms on net pens. In the substitute bill, the Department of Fish and Wildlife must investigate the approval of an antifoulant for the prevention of the buildup of marine organisms on net pens, and must approve an antifoulant that has been approved by the United States Environmental Protection Agency.

The original bill did not require persons engaged in Atlantic salmon marine aquatic farming to take any actions. The substitute bill requires persons engaged in Atlantic salmon marine aquatic farming to develop and implement written plans for the prevention of Atlantic salmon escapes, and for the recapture of escapes.

The original bill provided a moratorium on the creation of new or the expansion of existing marine finfish aquaculture facilities that lasted until the department determined

that the regulatory provisions of the bill had been implemented. The substitute bill eliminates the moratorium, instead requiring persons engaged in Atlantic salmon marine aquatic farming be required to provide up to $35,000 per year in matching funds for the implementation of the department's requirements under the act.

The original bill allowed the department to condition fish transport permits on compliance with the act. This provision is eliminated in the substitute bill.

The substitute bill contains an emergency clause.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill contains an emergency clause and takes effect immediately.

Testimony For: (Original bill) There have been many escapes of Atlantic salmon and this is combined with the listing of species under the Endangered Species Act. Canada has also had large numbers of escapes; over 1 million escapes into local waters in the last several years. Atlantic salmon are found in 45 streams in Canada, and in 20 in the United States. They have been found breeding in three streams in Canada. The industry is currently mixing Pacific salmon genes into Atlantic salmon in order to get them to feed more aggressively. There are disease issues here too. Alaska has banned net pens, and Canada has new environmental standards. It is in our own interest to act on this now, rather than later. This is an important industry, providing over $40 million in state income. There have been large escapes which is leading to colonization. The department only has authority to manage disease control. This bill helps the department. Oyster growers introduced Spartina which was dormant for 100 years and is now a big problem. These fish are producing some spawning populations. This is a proactive step that requires performance standards from an industry. There is competing science on this issue.

(In support with concerns) The moratorium in section five may effect projects where other fish are raised. Conditioning transport permits in section five has the same effect. We support this bill, except for the moratorium.

Testimony Against: (Original bill) Our company has four net pen sites in Skagit County producing 4 million pounds per year and we employ 27 people. This is an unnecessary bill as the industry is implementing better management practices. There are only nine active sites in Washington, all of which will have been replaced by next year. The industry is continuing to improve its practices, and is experimenting with sterilization. Bonds are already required, and this is an unnecessary provision. There is no science

to support a moratorium as the decline in salmon started before aquaculture existed. The moratorium in British Columbia was just removed after a study of the program was completed. This will strangle the industry and make improvements more difficult to implement. The Atlantic salmon watch program is a good idea. The recapture provisions would also help. Provisions allowing an antifouling agent are necessary. No self-sustaining populations have been established outside of their range, though there have been many attempts to do so. Atlantic salmon are not considered a risk to Pacific salmon by the National Marine Fisheries Service. There have been 14 independent studies of this, none of which found evidence of harm. Many of these concerns aren't supported by science. It is important for the industry to be responsible, but there needs to be tools for them to get there. The Washington State Grange has philosophical concerns with the moratorium in this bill because it would set a bad precedent for other agricultural industries. This sets bad precedent for other commodities. If the Legislature must go forward with this bill, the moratorium must be eliminated. The upper Columbia region needs to be excluded from this bill.

Testified: (In support) Representative Dave Anderson, prime sponsor; Kevin Amos, Washington Department of Fish and Wildlife; and Ed Owens, Seafood Harvesters.

(In support with concerns) Ric Abbett, Trout Unlimited; and Frank Urabeck, Northwest Marine Trade Association.

(Opposed) John Forester and Kevin Bright, Cypress Salmon; Jim Zimmerman, Trout Lodge; Jim Haase, Washington State Grange; Linda Johnson, Washington State Farm Bureau; Pete Granger, Washington Fish Growers Association; and David Schultz, Okanogan County.