

2SHB 2220 - S COMM AMD

By Committee on Natural Resources, Ocean & Recreation

ADOPTED 04/12/2007

1 Strike everything after the enacting clause and insert the
2 following:

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

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

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

18 (a) Analyze, through peer review, the credibility of the proposed
19 party to the contract, including whether the party has credible
20 experience and knowledge and has access to the facilities necessary to
21 fully execute the research required by the contract; and

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

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

28 (4) In prioritizing and directing research under this section, the
29 sea grant program shall meet with the department of ecology at least
30 annually and rely on guidance submitted by the department of ecology.

1 The department of ecology shall convene the shellfish aquaculture
2 regulatory committee created in section 4 of this act as necessary to
3 serve as an oversight committee to formulate the guidance provided to
4 the sea grant program. The objective of the oversight committee, and
5 the resulting guidance provided to the sea grant program, is to ensure
6 that the research required under this section satisfies the planning,
7 permitting, and data management needs of the state, to assist in the
8 prioritization of research given limited funding, and to help identify
9 any research that is beneficial to complete other than what is listed
10 in subsection (5) of this section.

11 (5) To satisfy the minimum requirements of subsection (1) of this
12 section, the sea grant program shall review all scientific research
13 that is existing or in progress that examines the possible effect of
14 currently prevalent geoduck practices, on the natural environment, and
15 prioritize and conduct new studies as needed, to measure and assess the
16 following:

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

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

23 (c) The extent to which geoducks in standard aquaculture tracts
24 alter the ecological characteristics of overlying waters while the
25 tracts are submerged, including impacts on species diversity, and the
26 abundance of other benthic organisms;

27 (d) Baseline information regarding naturally existing parasites and
28 diseases in wild and cultured geoducks, including whether and to what
29 extent commercial intertidal geoduck aquaculture practices impact the
30 baseline;

31 (e) Genetic interactions between cultured and wild geoduck,
32 including measurements of differences between cultured geoducks and
33 wild geoducks in terms of genetics and reproductive status; and

34 (f) The impact of the use of sterile triploid geoducks and whether
35 triploid animals diminish the genetic interactions between wild and
36 cultured geoducks.

37 (6) If adequate funding is not made available for the completion of
38 all research required under this section, the sea grant program shall

1 consult with the shellfish aquaculture regulatory committee, via the
2 department of ecology, to prioritize which of the enumerated research
3 projects have the greatest cost/benefit ratio in terms of providing
4 information important for regulatory decisions. The prioritization
5 process may include the addition of any new studies that may be
6 appropriate in addition to, or in place of, studies listed in this
7 section.

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

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

15 (9) Individual commissioned contracts under this section may
16 address single or multiple components listed for study under this
17 section.

18 (10) All research commissioned under this section must be completed
19 and the results reported to the appropriate committees of the
20 legislature by December 1, 2013. In addition, the sea grant program
21 shall provide the appropriate committees of the legislature with annual
22 reports updating the status and progress of the ongoing studies that
23 are completed in advance of the 2013 deadline.

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

26 The geoduck aquaculture research account is created in the custody
27 of the state treasurer. All receipts from any legislative
28 appropriations, the industry, or any other private or public source
29 directed to the account must be deposited in the account. Expenditures
30 from the account may only be used by the sea grant program for the
31 geoduck research projects identified by section 1 of this act. Only
32 the president of the University of Washington or the president's
33 designee may authorize expenditures from the account. The account is
34 subject to the allotment procedures under chapter 43.88 RCW, but an
35 appropriation is not required for expenditures.

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

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

6 (2) The department is prohibited from offering leases that would
7 permit the intertidal commercial aquaculture of geoducks on more than
8 a total of twenty-three acres of state-owned aquatic lands until: (a)
9 The department of ecology and the shellfish aquaculture regulatory
10 committee have submitted a final report containing recommendations as
11 required under section 4 of this act; and (b) the legislature has had
12 at least one full legislative session to consider and act upon the
13 recommendations. If the legislature does not take action limiting the
14 department's authority to lease state-owned aquatic lands for geoduck
15 aquaculture under (b) of this subsection, then the department may
16 resume leasing property consistent with any applicable federal, state,
17 and local guidelines or regulations.

18 (3) All rents and fees collected from leases of state-owned aquatic
19 lands for purposes of geoduck aquaculture must be deposited into the
20 geoduck aquaculture research account created under section 2 of this
21 act.

22 (4) Any intertidal leases entered into by the department for
23 geoduck aquaculture must be conditioned in such a way that: (a) The
24 department can engage in monitoring of the environmental impacts of the
25 lease's execution, without unreasonably diminishing the economic
26 viability of the lease, and that the lease tracts are eligible to be
27 made part of the studies conducted under section 1 of this act; and (b)
28 any aquaculture equipment and materials used in the cultivation,
29 protection, or harvest of geoducks be marked with the registration
30 number of the aquatic farmer as required under RCW 77.115.040. The
31 department must notify all abutting landowners of the intent of the
32 department to lease the tidal and subtidal lands for the purposes of
33 geoduck aquaculture. An intertidal lease entered into by the
34 department for the purpose of geoduck aquaculture may not contain an
35 automatic right of renewal.

36 NEW SECTION. **Sec. 4.** (1) The shellfish aquaculture regulatory
37 committee is established to, consistent with this section, serve as an

1 advisory body to the department of ecology on regulatory processes and
2 approvals for all current and new shellfish aquaculture activities, and
3 the activities conducted pursuant to RCW 90.58.060, as the activities
4 relate to shellfish. The shellfish aquaculture regulatory committee is
5 advisory in nature, and no vote or action of the committee may overrule
6 existing statutes, regulations, or local ordinances.

7 (2) The shellfish aquaculture regulatory committee shall develop
8 recommendations as to:

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

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

15 (3)(a) The members of the shellfish aquaculture regulatory
16 committee shall be appointed by the director of the department of
17 ecology as follows:

18 (i) Two representatives of county government, one from a county
19 located on the Puget Sound, and one from a county located on the
20 Pacific Ocean;

21 (ii) Two individuals who are professionally engaged in the
22 commercial aquaculture of shellfish, one who owns or operates an
23 aquatic farm in Puget Sound, and one who owns or operates an aquatic
24 farm in state waters other than the Puget Sound;

25 (iii) Two representatives of organizations representing the
26 environmental community;

27 (iv) Two individuals who own shoreline property, one of which does
28 not have a commercial geoduck operation on his or her property and one
29 of which who does have a commercial geoduck operation on his or her
30 property; and

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

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

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

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

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

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

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

21 NEW SECTION. **Sec. 5.** (1) The department of ecology shall develop,
22 by rule, guidelines for the appropriate siting and operation of geoduck
23 aquaculture operations to be included in any master program under this
24 section. The guidelines adopted under this section must be prepared
25 with the advice of the shellfish aquaculture regulatory committee
26 created in section 4 of this act, which shall serve as the advisory
27 committee for the development of the guidelines. The guidelines must
28 include abutting landowner notification of proposed tidal and subtidal
29 aquaculture activities.

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

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

1 **Sec. 6.** RCW 77.115.040 and 1993 sp.s. c 2 s 58 are each amended to
2 read as follows:

3 (1) All aquatic farmers as defined in RCW 15.85.020 shall register
4 with the department. The director shall develop and maintain a
5 registration list of all aquaculture farms and assign each farm a
6 registration number. The department shall periodically update the list
7 to ensure accuracy. The department shall coordinate with the
8 department of health using shellfish growing area certification data
9 when updating the registration list.

10 (2) Registered aquaculture farms shall provide the department
11 ((production statistical data)) with the following information: (a)
12 The name of the aquatic farmer; (b) the address of the aquatic farmer;
13 (c) contact information such as telephone, fax, web site, and email
14 address, if available; (d) the number of acres under cultivation; (e)
15 the name of the landowner of the property being cultivated or otherwise
16 used in the aquatic farming operation; (f) the private sector cultured
17 aquatic product being propagated, farmed, or cultivated; and (g)
18 production statistical data. As a condition of registration, all
19 aquatic farmers shall provide the department with proof of abutting
20 landowner notification of geoduck farming activities.

21 (3) The department shall require a registered aquatic farmer who
22 commercially farms and manages the cultivation of geoduck to mark any
23 aquaculture equipment and materials used in the cultivation,
24 protection, or harvest of geoducks with the registration number.

25 (4) The department must publish the contact information of a staff
26 person responsible for managing the registration list who is available
27 to answer questions from the public regarding aquatic farms that
28 cultivate geoducks.

29 (5) The state veterinarian shall be provided with registration and
30 statistical data by the department.

31 NEW SECTION. Sec. 7. If specific funding for the purposes of this
32 act, referencing this act by bill or chapter number, is not provided by
33 June 30, 2007, in the omnibus appropriations act, this act is null and
34 void."

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1 On page 1, line 1 of the title, after "shellfish;" strike the
2 remainder of the title and insert "amending RCW 79.135.100 and
3 77.115.040; adding new sections to chapter 28B.20 RCW; and creating new
4 sections."

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