**2957.E AMS WARN S5816.1 - NOT FOR FLOOR USE**

**EHB 2957** - S AMD **874**

By Senator Warnick

**NOT ADOPTED 03/02/2018**

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec.**  A new section is added to chapter 79.105 RCW under the subchapter heading "general use, sale, and lease provisions" to read as follows:

(1) The department may enter into a new aquatic land lease for the purpose of Atlantic salmon or nonnative finfish aquaculture only if such a lease is for the culture of exclusively single-sex Atlantic salmon or other single-sex nonnative marine finfish.

(2) The department may renew or extend a lease in existence on the effective date of this section for the culture of Atlantic salmon or other nonnative finfish only if such an extension or renewal is for the culture of exclusively single-sex Atlantic salmon or other single-sex nonnative marine finfish.

NEW SECTION. **Sec.**  A new section is added to chapter 77.125 RCW to read as follows:

(1) The department may permit Atlantic salmon or other nonnative marine finfish aquaculture after the expiration date of the relevant state-owned aquatic lands lease in effect on the effective date of this section only if the permits are for activities or operations related to marine aquaculture of single-sex Atlantic salmon or other single-sex nonnative finfish.

(2) The department may permit the transport of Atlantic salmon or other nonnative finfish after the expiration date of the relevant state-owned aquatic lands lease in effect on the effective date of this section only for the transport of single-sex Atlantic salmon or other nonnative finfish.

(3)(a) For marine finfish aquaculture authorized or permitted consistent with this section, the facility operator must hire, at their own expense, a marine engineering firm approved by the department to conduct inspections. Inspections must occur approximately every two years, when net pens are fallow, and must include topside and mooring assessments related to escapement potential, structural integrity, permit compliance, and operations.

(b) A net pen facility must be found to be in good working order to receive fish.

(c) If the facility is found to be in imminent danger of collapse or release of fish, the director may require the operator to remove fish or deny a fish transfer permit.

(4)(a) For marine finfish aquaculture authorized or permitted consistent with this section, a fish health specialist certified or approved by the department must conduct fish health inspections at each net pen facility at least twice per year.

(b) The fish health inspections must include collection of fish tissue for the laboratory testing of regulated pathogens.

(c) The full cost of these inspections must be paid by the net pen facility operator.

NEW SECTION. **Sec.**  A new section is added to chapter 90.48 RCW to read as follows:

The department may not permit any activities or operations for the marine aquaculture of Atlantic salmon or other nonnative finfish after the expiration date of the relevant state-owned aquatic lands lease in effect on the effective date of this section, unless the permits are for activities or operations for the marine aquaculture of single-sex Atlantic salmon or other single-sex nonnative finfish.

**Sec.**  RCW 77.12.047 and 2017 c 159 s 2 are each amended to read as follows:

(1) The commission may adopt, amend, or repeal rules as follows:

(a) Specifying the times when the taking of wildlife, fish, or shellfish is lawful or unlawful.

(b) Specifying the areas and waters in which the taking and possession of wildlife, fish, or shellfish is lawful or unlawful.

(c) Specifying and defining the gear, appliances, or other equipment and methods that may be used to take wildlife, fish, or shellfish, and specifying the times, places, and manner in which the equipment may be used or possessed.

(d) Regulating the importation, transportation, possession, disposal, landing, and sale of wildlife, fish, shellfish, or seaweed within the state, whether acquired within or without the state. This authority must be exercised consistent with section 2 of this act. However, the rules of the department must prohibit any person, including department staff, from translocating a live elk from an area with elk affected by hoof disease to any other location except:

(i) Consistent with a process developed by the department with input from the affected federally recognized tribes for translocation for monitoring or hoof disease management purposes; or

(ii) Within an elk herd management plan area affected by hoof disease.

(e) Regulating the prevention and suppression of diseases and pests affecting wildlife, fish, or shellfish.

(f) Regulating the size, sex, species, and quantities of wildlife, fish, or shellfish that may be taken, possessed, sold, or disposed of.

(g) Specifying the statistical and biological reports required from fishers, dealers, boathouses, or processors of wildlife, fish, or shellfish.

(h) Classifying species of marine and freshwater life as food fish or shellfish.

(i) Classifying the species of wildlife, fish, and shellfish that may be used for purposes other than human consumption.

(j) Regulating the taking, sale, possession, and distribution of wildlife, fish, shellfish, or deleterious exotic wildlife.

(k) Establishing game reserves and closed areas where hunting for wild animals or wild birds may be prohibited.

(l) Regulating the harvesting of fish, shellfish, and wildlife in the federal exclusive economic zone by vessels or individuals registered or licensed under the laws of this state.

(m) Authorizing issuance of permits to release, plant, or place fish or shellfish in state waters.

(n) Governing the possession of fish, shellfish, or wildlife so that the size, species, or sex can be determined visually in the field or while being transported.

(o) Other rules necessary to carry out this title and the purposes and duties of the department.

(2)(a) Subsections (1)(a), (b), (c), (d), and (f) of this section do not apply to private tideland owners and lessees and the immediate family members of the owners or lessees of state tidelands, when they take or possess oysters, clams, cockles, borers, or mussels, excluding razor clams, produced on their own private tidelands or their leased state tidelands for personal use.

(b) "Immediate family member" for the purposes of this section means a spouse, brother, sister, grandparent, parent, child, or grandchild.

(3) Except for subsection (1)(g) of this section, this section does not apply to private sector cultured aquatic products as defined in RCW 15.85.020. Subsection (1)(g) of this section does apply to such products.

**Sec.**  RCW 77.125.030 and 2001 c 86 s 3 are each amended to read as follows:

(1) The director, in cooperation with the marine finfish aquatic farmers, shall develop proposed rules for the implementation, administration, and enforcement of marine finfish aquaculture programs. In developing such proposed rules, the director must use a negotiated rule-making process pursuant to RCW 34.05.310. The proposed rules shall be submitted to the appropriate legislative committees by January 1, 2002, to allow for legislative review of the proposed rules. The proposed rules shall include the following elements:

((~~(1)~~)) (a) Provisions for the prevention of escapes of cultured marine finfish aquaculture products from enclosures, net pens, or other rearing vessels;

((~~(2)~~)) (b) Provisions for the development and implementation of management plans to facilitate the most rapid recapture of live marine finfish aquaculture products that have escaped from enclosures, net pens, or other rearing vessels, and to prevent the spread or permanent escape of these products;

((~~(3)~~)) (c) Provisions for the development of management practices based on the latest available science, to include:

((~~(a)~~)) (i) Procedures for inspections of marine aquatic farming locations on a regular basis to determine conformity with law and the rules of the department relating to the operation of marine aquatic farming locations; and

((~~(b)~~)) (ii) Operating procedures at marine aquatic farming locations to prevent the escape of marine finfish, to include the use of net antifoulants;

((~~(4)~~)) (d) Provisions for the eradication of those cultured marine finfish aquaculture products that have escaped from enclosures, net pens, or other rearing vessels found spawning in state waters;

((~~(5)~~)) (e) Provisions for the determination of appropriate species, stocks, and races of marine finfish aquaculture products allowed to be cultured at specific locations and sites;

((~~(6)~~)) (f) Provisions for the development of an Atlantic salmon watch program similar to the one in operation in British Columbia, Canada. The program must provide for the monitoring of escapes of Atlantic salmon from marine aquatic farming locations, monitor the occurrence of naturally produced Atlantic salmon, determine the impact of Atlantic salmon on naturally produced and cultured finfish stocks, provide a focal point for consolidation of scientific information, and provide a forum for interaction and education of the public; and

((~~(7)~~)) (g) Provisions for the development of an education program to assist marine aquatic farmers so that they operate in an environmentally sound manner.

(2) The department must implement this section consistent with section 2 of this act.

**Sec.**  RCW 90.48.220 and 1993 c 296 s 1 are each amended to read as follows:

(1) For the purposes of this section "marine finfish rearing facilities" means those private and public facilities located within the salt water of the state where finfish are fed, nurtured, held, maintained, or reared to reach the size of release or for market sale.

(2) Not later than October 31, 1994, the department shall adopt criteria under chapter 34.05 RCW for allowable sediment impacts from organic enrichment due to marine finfish rearing facilities.

(3) Not later than June 30, 1995, the department shall adopt standards under chapter 34.05 RCW for waste discharges from marine finfish rearing facilities. In establishing these standards, the department shall review and incorporate, to the extent possible, studies conducted by state and federal agencies on waste discharges from marine finfish rearing facilities, and any reports and other materials prepared by technical committees on waste discharges from marine finfish rearing facilities. The department shall approve or deny discharge permit applications for marine finfish rearing facilities within one hundred eighty days from the date of application, unless a longer time is required to satisfy public participation requirements in the permit process in accordance with applicable rules, or compliance with the requirements of the state environmental policy act under chapter 43.21C RCW. The department shall notify applicants as soon as it determines that a proposed discharge meets or fails to comply with the standards adopted pursuant to this section, or if a time period longer than one hundred eighty days is necessary to satisfy public participation requirements of the state environmental policy act.

(4) The department may adopt rules to exempt marine finfish rearing facilities not requiring national pollutant discharge elimination system permits under the federal water pollution control act from the discharge permit requirement.

(5) The department must implement this section consistent with section 3 of this act."

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On page 1, line 2 of the title, after "facilities;" strike the remainder of the title and insert "amending RCW 77.12.047, 77.125.030, and 90.48.220; adding a new section to chapter 79.105 RCW; adding a new section to chapter 77.125 RCW; and adding a new section to chapter 90.48 RCW."

EFFECT: Requires any new or renewal of current state aquatic lands leases for the culture of Atlantic salmon or other nonnative finfish to require the cultivation of only single-sex populations of Atlantic salmon or nonnative finfish. Specifies that, after the expiration date of current aquatic lands leases, the department of ecology and the department of fish and wildlife (DFW) may permit Atlantic salmon or nonnative finfish aquaculture activities or operations only if single-sex populations of Atlantic salmon or nonnative finfish are used.

Requires marine finfish aquaculture facilities used to cultivate single-sex populations of Atlantic salmon or nonnative finfish to be inspected by a marine engineering firm approved by DFW, at the expense of the facility operator, approximately every two years.

Requires net pen facilities to be in good working order before receiving fish, and specifies that the director of the DFW may require the removal of fish, or deny a fish transport permit, if the inspected facility is found to be in imminent danger of collapse.

Requires a DFW-certified or approved fish health specialist to, at the expense of the facility operator, conduct fish health inspections at each net pen facility used to cultivate single-sex populations of Atlantic salmon or nonnative finfish at least twice per year.