

2SHB 2220 - S AMD 592

By Senators Jacobsen, Spanel, Fraser, Rockefeller

ADOPTED 04/20/2007

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; however, the study
5 identified in subsection (5)(b) of this section shall receive top
6 priority. The prioritization process may include the addition of any
7 new studies that may be appropriate in addition to, or in place of,
8 studies listed in this section.

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

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

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

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

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

27 The geoduck aquaculture research account is created in the custody
28 of the state treasurer. All receipts from any legislative
29 appropriations, the aquaculture industry, or any other private or
30 public source directed to the account must be deposited in the account.
31 Expenditures from the account may only be used by the sea grant program
32 for the geoduck research projects identified by section 1 of this act.
33 Only the president of the University of Washington or the president's
34 designee may authorize expenditures from the account. The account is
35 subject to the allotment procedures under chapter 43.88 RCW, but an
36 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) After an initial twenty-three acres are leased, the department
7 is prohibited from offering leases that would permit the intertidal
8 commercial aquaculture of geoducks on more than fifteen acres of state-
9 owned aquatic lands a year until December 1, 2014.

10 (3) Any intertidal leases entered into by the department for
11 geoduck aquaculture must be conditioned in such a way that the
12 department can engage in monitoring of the environmental impacts of the
13 lease's execution, without unreasonably diminishing the economic
14 viability of the lease, and that the lease tracts are eligible to be
15 made part of the studies conducted under section 1 of this act.

16 (4) The department must notify all abutting landowners and any
17 landowner within three hundred feet of the lands to be leased of the
18 intent of the department to lease any intertidal lands for the purposes
19 of geoduck aquaculture.

20 NEW SECTION. **Sec. 4.** (1) The shellfish aquaculture regulatory
21 committee is established to, consistent with this section, serve as an
22 advisory body to the department of ecology on regulatory processes and
23 approvals for all current and new shellfish aquaculture activities, and
24 the activities conducted pursuant to RCW 90.58.060, as the activities
25 relate to shellfish. The shellfish aquaculture regulatory committee is
26 advisory in nature, and no vote or action of the committee may overrule
27 existing statutes, regulations, or local ordinances.

28 (2) The shellfish aquaculture regulatory committee shall develop
29 recommendations as to:

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

34 (b) Appropriate guidelines for geoduck aquaculture operations to be
35 included in shoreline master programs under section 5 of this act.
36 When developing the recommendations for guidelines under this
37 subsection, the committee must examine the following:

1 (i) Methods for quantifying and reducing marine litter; and
2 (ii) Possible landowner notification policies and requirements for
3 establishing new geoduck aquaculture farms.

4 (3)(a) The members of the shellfish aquaculture regulatory
5 committee shall be appointed by the director of the department of
6 ecology as follows:

7 (i) Two representatives of county government, one from a county
8 located on the Puget Sound, and one from a county located on the
9 Pacific Ocean;

10 (ii) Two individuals who are professionally engaged in the
11 commercial aquaculture of shellfish, one who owns or operates an
12 aquatic farm in Puget Sound, and one who owns or operates an aquatic
13 farm in state waters other than the Puget Sound;

14 (iii) Two representatives of organizations representing the
15 environmental community;

16 (iv) Two individuals who own shoreline property, one of which does
17 not have a commercial geoduck operation on his or her property and one
18 of which who does have a commercial geoduck operation on his or her
19 property; and

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

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

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

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

34 (6) Any participation by a Native American tribe on the shellfish
35 aquaculture regulatory committee shall not, under any circumstances, be
36 viewed as an admission by the tribe that any of its activities, or
37 those of its members, are subject to any of the statutes, regulations,

1 ordinances, standards, or permit systems reviewed, considered, or
2 proposed by the committee.

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

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

10 NEW SECTION. **Sec. 5.** (1) The department of ecology shall develop,
11 by rule, guidelines for the appropriate siting and operation of geoduck
12 aquaculture operations to be included in any master program under this
13 section. The guidelines adopted under this section must be prepared
14 with the advice of the shellfish aquaculture regulatory committee
15 created in section 4 of this act, which shall serve as the advisory
16 committee for the development of the guidelines.

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

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

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

27 (1) All aquatic farmers, as defined in RCW 15.85.020, shall
28 register with the department. The director shall assign each aquatic
29 farm a unique registration number and develop and maintain in an
30 electronic database a registration list of all aquaculture farms. The
31 department shall establish procedures to annually update the aquatic
32 farmer information contained in the registration list. The department
33 shall coordinate with the department of health using shellfish growing
34 area certification data when updating the registration list.

35 (2) Registered aquaculture farms shall provide the department
36 (~~(production statistical data)~~) with the following information:

- 1 (a) The name of the aquatic farmer;
2 (b) The address of the aquatic farmer;
3 (c) Contact information such as telephone, fax, web site, and email
4 address, if available;
5 (d) The number and location of acres under cultivation, including
6 a map displaying the location of the cultivated acres;
7 (e) The name of the landowner of the property being cultivated or
8 otherwise used in the aquatic farming operation;
9 (f) The private sector cultured aquatic product being propagated,
10 farmed, or cultivated; and
11 (g) Statistical production data.
12 (3) The state veterinarian shall be provided with registration and
13 statistical data by the department."

2SHB 2220 - S AMD

By Senators Jacobsen, Spanel, Fraser, Rockefeller

ADOPTED 04/20/2007

14 On page 1, line 1 of the title, after "shellfish;" strike the
15 remainder of the title and insert "amending RCW 79.135.100 and
16 77.115.040; adding new sections to chapter 28B.20 RCW; and creating new
17 sections."

--- END ---