

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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**ADOPTED 04/12/2007**

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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