
HOUSE BILL 1270

State of Washington

64th Legislature

2015 Regular Session

By Representatives Buys, Blake, and Haler

Read first time 01/16/15. Referred to Committee on Agriculture & Natural Resources.

1 AN ACT Relating to increasing salmon populations in Washington
2 through the implementation of a new fish hatchery management
3 structure that is modeled on the proven, successful structure
4 utilized by the state of Alaska for the past forty years; amending
5 RCW 77.04.160, 77.95.210, 77.95.290, and 77.100.050; adding a new
6 section to chapter 77.50 RCW; adding a new chapter to Title 77 RCW;
7 creating a new section; and providing an expiration date.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

9 NEW SECTION. **Sec. 1.** The definitions in this section apply
10 throughout this chapter unless the context clearly requires
11 otherwise.

12 (1) "Certified hatchery manager" means the manager of a permitted
13 hatchery who has received certification from the department under
14 section 4 of this act.

15 (2) "Hatchery-affected area" means the delineated areas of state
16 waters identified by the department under section 2 of this act where
17 the permitted hatchery is expected to have a significant positive
18 effect on fishing opportunities.

19 (3) "Permit" means a permit issued to a qualified regional
20 aquaculture association under section 2 of this act to operate a
21 salmon hatchery.

1 (4) "Permitted hatchery" means a hatchery operated by a qualified
2 regional aquaculture association that possesses a permit issued under
3 section 2 of this act.

4 (5) "Qualified regional aquaculture association" means a private,
5 nonprofit organization that is governed by a board of directors
6 composed of salmon recovery stakeholders, at least half of which
7 represent native American tribes with treaty salmon harvesting
8 rights, and is organized for the purpose of managing salmon
9 hatcheries under this chapter.

10 (6) "Salmon recovery stakeholder" means a person who, either
11 directly or as a representative of a group, has been identified by
12 the department as having been involved in the state's ongoing salmon
13 recovery efforts, such as participating in a regional fisheries
14 enhancement group authorized under RCW 77.95.060 or a commercial
15 salmon fishery.

16 NEW SECTION. **Sec. 2.** (1) Except as otherwise provided in this
17 section, the department must issue at least three permits to
18 qualified regional aquaculture associations to construct and operate
19 individual salmon hatcheries. After the first three permits are
20 issued, the department may issue additional permits at its
21 discretion.

22 (2) The department may only issue a permit under this section to
23 a qualified regional aquaculture association that has actively
24 applied to the department for a permit and that satisfies the
25 requirements for a permit under this chapter.

26 (3) A hatchery that was permitted as an educational hatchery on
27 the effective date of this section must, upon application,
28 automatically receive permitting as a commercial production hatchery
29 under this section if all other requirements of this chapter are
30 satisfied.

31 (4) As part of the permitting process, the department must
32 delineate the areas of state waters where the permitted hatchery is
33 expected to have a significant positive effect on fishing
34 opportunities. Only one permit may be issued in each of these
35 hatchery-affected areas.

36 (5) The department may only issue less than three permits under
37 this section if there are too few qualified regional aquaculture
38 associations that satisfy the requirements for a permit under this
39 chapter and that have actively applied for a permit.

1 NEW SECTION. **Sec. 3.** (1) Prior to being approved for a permit
2 under this chapter, a qualified regional aquaculture association must
3 submit a business plan to the department.

4 (2) The business plan submitted by the qualified regional
5 aquaculture association must include, at a minimum:

6 (a) The identification of the amounts and proposed sources of
7 capital contributions necessary to initiate and maintain hatchery
8 production;

9 (b) The identification of the approximate cost of each production
10 harvest allocation as apportioned amongst the various harvest groups
11 participating in the qualified regional aquaculture association;

12 (c) Evidence of an agreement among harvest groups participating
13 in the qualified regional aquaculture association to apportion
14 operations costs;

15 (d) Evidence of an agreement of all applicable nontribal
16 stakeholders to not compete for grants against tribal organizations;
17 and

18 (e) A planned method for equitably resolving any inadvertent
19 allocation overharvesting amongst harvest groups participating in the
20 managing qualified regional aquaculture association that relies on a
21 system of cash payments from overharvesting groups to the
22 underharvesting groups in the year that the misallocation occurs.

23 NEW SECTION. **Sec. 4.** (1) Each qualified regional aquaculture
24 association awarded a permit under this chapter must have in its
25 employ, or under contract, a hatchery manager that has been certified
26 by the department.

27 (2) The department shall develop standards for hatchery manager
28 certification and accept applications from individuals interested in
29 being certified to operate a hatchery on behalf of a permitted
30 qualified regional aquaculture association.

31 (3) An individual who can demonstrate that he or she actively
32 managed a state, tribal, or federal hatchery on the effective date of
33 this section must, upon application, be provided a certification
34 under this section.

35 NEW SECTION. **Sec. 5.** (1) The department must provide a
36 permitted hatchery with adequate production limits that emphasize the
37 production of pink and chum salmon intended to rebalance the food
38 chain for native coho, chinook, and steelhead species. The department

1 must also, if requested by a permitted hatchery, provide permitted
2 hatcheries with an adequate production limit for coho salmon to
3 encourage recreational fishing opportunities.

4 (2) Hatcheries that existed prior to the effective date of this
5 section, if later permitted under a qualified regional aquaculture
6 association, must receive priority application review for an
7 expedited production increase.

8 NEW SECTION. **Sec. 6.** (1) The department must restrict harvest
9 opportunities in hatchery-affected areas to fishers who are
10 financially participating in the capitalization and operating
11 expenses of the enhanced fishing opportunities provided by the
12 permitted hatchery and the associated qualified regional aquaculture
13 association.

14 (2) Permanent harvest allocations for harvest within a hatchery-
15 affected area, which may include individual harvest quotas, must be
16 agreed to in a written contract amongst the fishers authorized to
17 operate within a hatchery-affected area. The agreed-to harvest
18 allocations are considered permanent until or unless voluntarily
19 renegotiated by the signatories to the contract.

20 (3) All nontribal fishers authorized to harvest in a hatchery-
21 affected area must be legally licensed by the department under this
22 title.

23 (4) The department must condition all nontribal fishers operating
24 in a hatchery-affected area with harvest requirements for gear type
25 that encourage the best available technology for environmentally
26 sensitive selective harvesting.

27 NEW SECTION. **Sec. 7.** (1) Any certified hatchery manager may
28 request broodstock from the department as necessary to operate a
29 permitted hatchery. The department must fulfill all broodstock
30 requests, when practicable, in the time and manner requested by the
31 certified hatchery manager.

32 (2) The department must monitor actual broodstock survival rate
33 performance at permitted hatcheries and replace, as necessary,
34 broodstock if the existing broodstock demonstrates low survival.

35 (3) Any necessary licenses for receiving broodstock must be
36 issued in the name of the qualified regional aquaculture association
37 responsible for managing the permitted hatchery and not in the name
38 of the certified hatchery manager.

1 NEW SECTION. **Sec. 8.** The department must, in its implementation
2 of this title, fully and expeditiously cooperate with the goals of
3 each qualified regional aquaculture association awarded a permit
4 under this chapter and with the intent of this chapter.

5 NEW SECTION. **Sec. 9.** The department must, prior to selling or
6 decommissioning a surplus hatchery owned or managed by the state,
7 offer to sell or contract the operations of the hatchery to a
8 qualified regional aquaculture association that has been permitted
9 under this chapter or that could qualify for permitting under this
10 chapter.

11 NEW SECTION. **Sec. 10.** The commission shall adopt rules to
12 implement the requirements of this chapter. In adopting rules, the
13 commission must study and, when appropriate, model the mature,
14 tested, and robust legal structure adopted for private, nonprofit
15 hatcheries by the state of Alaska that has led to significant
16 increases in the numbers of both wild and hatchery fish in Alaska
17 waters over the last forty years. All rules adopted under this
18 section must be designed to minimize the interaction among fish
19 produced by permitted hatcheries and any wild stocks that occur in a
20 hatchery-affected area.

21 NEW SECTION. **Sec. 11.** (1) Initial rule making under section 10
22 of this act must be completed by December 31, 2016.

23 (2) This section expires June 30, 2017.

24 NEW SECTION. **Sec. 12.** A new section is added to chapter 77.50
25 RCW to read as follows:

26 The commission must condition all commercial salmon licenses that
27 authorize harvest in a hatchery-affected area, as that term is
28 defined in section 1 of this act, as necessary to comply with the
29 requirements of chapter 77.--- RCW (the new chapter created in
30 section 17 of this act).

31 **Sec. 13.** RCW 77.04.160 and 2001 c 337 s 5 are each amended to
32 read as follows:

33 (1) The department shall prepare an annual surplus salmon report.
34 This report shall include the disposition of adult salmonids that
35 have returned to salmonid hatchery facilities operated under the

1 jurisdiction of the state and by permitted hatcheries, as that term
2 is defined in section 1 of this act, that:

3 (a) Have not been harvested; and

4 (b) Were not allowed to escape for natural spawning.

5 (2) The report shall include, by species, the number and
6 estimated weight of surplus salmon and steelhead and a description of
7 the disposition of the adult carcasses including, but not limited to,
8 the following categories:

9 (a) Disposed in landfills;

10 (b) Transferred to another government agency for reproductive
11 purposes;

12 (c) Sold to contract buyers in the round;

13 (d) Sold to contract buyers after spawning;

14 (e) Transferred to Native American tribes;

15 (f) Donated to food banks; and

16 (g) Used in stream nutrient enrichment programs.

17 (3) The report shall also include, by species, information on the
18 number of requests for viable salmon eggs, the number of these
19 requests that were granted and the number that were denied, the
20 geographic areas for which these requests were granted or denied, and
21 a brief explanation given for each denial of a request for viable
22 salmon eggs.

23 (4) The report shall be included in the biennial (~~state of the~~
24 ~~salmon~~) report required by RCW 77.85.020 and other similar state
25 reports on salmon.

26 (5) The report shall include an assessment of the infrastructure
27 needs and facility modifications necessary to implement chapter 337,
28 Laws of 2001.

29 **Sec. 14.** RCW 77.95.210 and 2001 c 337 s 1 are each amended to
30 read as follows:

31 (1) Except as provided in subsection (2) of this section, the
32 department may supply, at a reasonable charge, surplus salmon eggs to
33 a person for use in the cultivation of salmon. The department shall
34 not intentionally create a surplus of salmon to provide eggs for
35 sale. The department shall only sell salmon eggs from stocks that are
36 not suitable for salmon population rehabilitation or enhancement in
37 state waters in Washington after the salmon harvest on surplus salmon
38 has been first maximized by both commercial and recreational fishers.

1 (2) The department shall not destroy hatchery origin salmon for
2 the purposes of destroying viable eggs that would otherwise be useful
3 for propagation or salmon recovery purposes, as determined by the
4 department and Indian tribes with treaty fishing rights in a
5 collaborative manner, for replenishing fish runs. Eggs deemed surplus
6 by the state must be provided, in the following order of priority,
7 to:

8 (a) Voluntary cooperative salmon culture programs under the
9 supervision of the department under chapter 77.100 RCW;

10 (b) Regional fisheries enhancement group salmon culture programs
11 under the supervision of the department under this chapter;

12 (c) Salmon culture programs requested by lead entities and
13 approved by the salmon funding recovery board under chapter 77.85
14 RCW;

15 (d) Hatcheries of federally approved tribes in Washington to whom
16 eggs are moved, not sold, under the interlocal cooperation act,
17 chapter 39.34 RCW; ~~((and))~~

18 (e) A permitted hatchery, as that term is defined in section 1 of
19 this act; and

20 (f) Governmental hatcheries in Washington, Oregon, and Idaho.

21 The order of priority established in this subsection for
22 distributing surplus eggs does not apply when there is a shortfall in
23 the supply of eggs.

24 (3) All sales, provisions, distributions, or transfers shall be
25 consistent with the department's egg transfer and aquaculture disease
26 control regulations as now existing or hereafter amended. Prior to
27 department determination that eggs of a salmon stock are surplus and
28 available for sale, the department shall assess the productivity of
29 each watershed that is suitable for receiving eggs.

30 **Sec. 15.** RCW 77.95.290 and 1999 c 372 s 15 are each amended to
31 read as follows:

32 (1) The department shall mark appropriate coho salmon that are
33 released from department operated hatcheries and rearing ponds in
34 such a manner that the fish are externally recognizable as hatchery
35 origin salmon by fishers for the purpose of maximized catch while
36 sustaining wild and hatchery reproduction.

37 (2) The department shall mark all appropriate chinook salmon
38 targeted for contribution to the Washington catch that are released
39 from department operated hatcheries and rearing ponds in such a

1 manner that the fish are externally recognizable as hatchery origin
2 salmon by fishers.

3 ~~((The goal of the marking program is: (1) The annual marking by
4 June 30, 1997, of all appropriate hatchery origin coho salmon
5 produced by the department with marking to begin with the 1994 Puget
6 Sound coho brood; and (2) the annual marking by June 30, 1999, of all
7 appropriate hatchery origin chinook salmon produced by the department
8 with marking to begin with the 1998 chinook brood.))~~ (3) The
9 department may experiment with different methods for marking hatchery
10 salmon with the primary objective of maximum survival of hatchery
11 marked fish, maximum contribution to fisheries, and minimum cost
12 consistent with the other goals.

13 (4)(a) The department shall coordinate with other entities that
14 are producing hatchery chinook and coho salmon for release into
15 public waters to enable the broadest application of the marking
16 program to all hatchery produced chinook and coho salmon and require
17 the application of the marking program for all permitted hatcheries,
18 as that term is defined in section 1 of this act.

19 (b) The department shall work with the treaty Indian tribes in
20 order to reach mutual agreement on the implementation of the mass
21 marking program.

22 (c) The ultimate goal of the program is the coast-wide marking of
23 appropriate hatchery origin chinook and coho salmon, and the
24 protection of all wild chinook and coho salmon, where appropriate.

25 **Sec. 16.** RCW 77.100.050 and 2001 c 337 s 3 are each amended to
26 read as follows:

27 (1) The department shall:

28 (a) Encourage and support the establishment of cooperative
29 agreements for the development and operation of cooperative food
30 fish, shellfish, game fish, game bird, game animal, and nongame
31 wildlife projects, and projects which provide an opportunity for
32 volunteer groups to become involved in resource and habitat-oriented
33 activities. All cooperative projects shall be fairly considered in
34 the approval of cooperative agreements;

35 (b) Identify regions and species or activities that would be
36 particularly suitable for cooperative projects providing benefits
37 compatible with department goals;

38 (c) Determine the availability of rearing space at operating
39 facilities or of net pens, egg boxes, portable rearing containers,

1 incubators, and any other rearing facilities for use in cooperative
2 projects, and allocate them to volunteer groups as fairly as
3 possible;

4 (d) Make viable eggs available for replenishing fish runs, and
5 salmon carcasses for nutrient enhancement of streams. If a regional
6 fisheries enhancement group, lead entity, volunteer cooperative
7 group, federally approved tribe in Washington, permitted hatchery as
8 defined in section 1 of this act, or a governmental hatchery in
9 Washington, Oregon, or Idaho requests the department for viable eggs,
10 the department must include the request within the brood stock
11 document prepared for review by the regional offices. The eggs shall
12 be distributed in accordance with the priority established in RCW
13 77.95.210 if they are available. A request for viable eggs may only
14 be denied if the eggs would not be useful for propagation or salmon
15 recovery purposes, as determined under RCW 77.95.210;

16 (e) Exempt volunteer groups from payment of fees to the
17 department for activities related to the project;

18 (f) Publicize the cooperative program;

19 (g) Not substitute a new cooperative project for any part of the
20 department's program unless mutually agreeable to the department and
21 volunteer group;

22 (h) Not approve agreements that are incompatible with legally
23 existing land, water, or property rights.

24 (2) The department may, when requested, provide to volunteer
25 groups its available professional expertise and assist the volunteer
26 group to evaluate its project. The department must conduct annual
27 workshops in each administrative region of the department that has
28 fish stocks listed as threatened or endangered under the federal
29 endangered species act, 16 U.S.C. Sec. 1531 et seq., in order to
30 assist volunteer groups with egg rearing, share information on
31 successful salmon recovery projects accomplished by volunteers within
32 the state, and provide basic training on monitoring efforts that can
33 be accomplished by volunteers in order to help determine if their
34 efforts are successful.

35 NEW SECTION. **Sec. 17.** Sections 1 through 10 of this act
36 constitute a new chapter in Title 77 RCW.

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