

EHB 2957 - S AMD 874
By Senator Warnick

NOT ADOPTED 03/02/2018

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

3 NEW SECTION. **Sec. 1.** A new section is added to chapter 79.105
4 RCW under the subchapter heading "general use, sale, and lease
5 provisions" to read as follows:

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

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

15 NEW SECTION. **Sec. 2.** A new section is added to chapter 77.125
16 RCW to read as follows:

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

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

28 (3)(a) For marine finfish aquaculture authorized or permitted
29 consistent with this section, the facility operator must hire, at
30 their own expense, a marine engineering firm approved by the
31 department to conduct inspections. Inspections must occur

1 approximately every two years, when net pens are fallow, and must
2 include topside and mooring assessments related to escapement
3 potential, structural integrity, permit compliance, and operations.

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

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

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

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

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

17 NEW SECTION. **Sec. 3.** A new section is added to chapter 90.48
18 RCW to read as follows:

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

25 **Sec. 4.** RCW 77.12.047 and 2017 c 159 s 2 are each amended to
26 read as follows:

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

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

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

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

36 (d) Regulating the importation, transportation, possession,
37 disposal, landing, and sale of wildlife, fish, shellfish, or seaweed
38 within the state, whether acquired within or without the state. This

1 authority must be exercised consistent with section 2 of this act.
2 However, the rules of the department must prohibit any person,
3 including department staff, from translocating a live elk from an
4 area with elk affected by hoof disease to any other location except:
5 (i) Consistent with a process developed by the department with
6 input from the affected federally recognized tribes for translocation
7 for monitoring or hoof disease management purposes; or
8 (ii) Within an elk herd management plan area affected by hoof
9 disease.
10 (e) Regulating the prevention and suppression of diseases and
11 pests affecting wildlife, fish, or shellfish.
12 (f) Regulating the size, sex, species, and quantities of
13 wildlife, fish, or shellfish that may be taken, possessed, sold, or
14 disposed of.
15 (g) Specifying the statistical and biological reports required
16 from fishers, dealers, boathouses, or processors of wildlife, fish,
17 or shellfish.
18 (h) Classifying species of marine and freshwater life as food
19 fish or shellfish.
20 (i) Classifying the species of wildlife, fish, and shellfish that
21 may be used for purposes other than human consumption.
22 (j) Regulating the taking, sale, possession, and distribution of
23 wildlife, fish, shellfish, or deleterious exotic wildlife.
24 (k) Establishing game reserves and closed areas where hunting for
25 wild animals or wild birds may be prohibited.
26 (l) Regulating the harvesting of fish, shellfish, and wildlife in
27 the federal exclusive economic zone by vessels or individuals
28 registered or licensed under the laws of this state.
29 (m) Authorizing issuance of permits to release, plant, or place
30 fish or shellfish in state waters.
31 (n) Governing the possession of fish, shellfish, or wildlife so
32 that the size, species, or sex can be determined visually in the
33 field or while being transported.
34 (o) Other rules necessary to carry out this title and the
35 purposes and duties of the department.
36 (2)(a) Subsections (1)(a), (b), (c), (d), and (f) of this section
37 do not apply to private tideland owners and lessees and the immediate
38 family members of the owners or lessees of state tidelands, when they
39 take or possess oysters, clams, cockles, borers, or mussels,

1 excluding razor clams, produced on their own private tidelands or
2 their leased state tidelands for personal use.

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

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

10 **Sec. 5.** RCW 77.125.030 and 2001 c 86 s 3 are each amended to
11 read as follows:

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

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

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

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

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

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

38 ((+4)) (d) Provisions for the eradication of those cultured
39 marine finfish aquaculture products that have escaped from

1 enclosures, net pens, or other rearing vessels found spawning in
2 state waters;

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

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

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

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

20 **Sec. 6.** RCW 90.48.220 and 1993 c 296 s 1 are each amended to
21 read as follows:

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

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

30 (3) Not later than June 30, 1995, the department shall adopt
31 standards under chapter 34.05 RCW for waste discharges from marine
32 finfish rearing facilities. In establishing these standards, the
33 department shall review and incorporate, to the extent possible,
34 studies conducted by state and federal agencies on waste discharges
35 from marine finfish rearing facilities, and any reports and other
36 materials prepared by technical committees on waste discharges from
37 marine finfish rearing facilities. The department shall approve or
38 deny discharge permit applications for marine finfish rearing
39 facilities within one hundred eighty days from the date of

1 application, unless a longer time is required to satisfy public
2 participation requirements in the permit process in accordance with
3 applicable rules, or compliance with the requirements of the state
4 environmental policy act under chapter 43.21C RCW. The department
5 shall notify applicants as soon as it determines that a proposed
6 discharge meets or fails to comply with the standards adopted
7 pursuant to this section, or if a time period longer than one hundred
8 eighty days is necessary to satisfy public participation requirements
9 of the state environmental policy act.

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

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

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16 On page 1, line 2 of the title, after "facilities;" strike the
17 remainder of the title and insert "amending RCW 77.12.047,
18 77.125.030, and 90.48.220; adding a new section to chapter 79.105
19 RCW; adding a new section to chapter 77.125 RCW; and adding a new
20 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.

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