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**Agriculture & Natural Resources  
Committee**

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**2SSB 6086**

**Brief Description:** Protecting the state's marine waters from the release of nonnative finfish from marine finfish aquaculture sites.

**Sponsors:** Senate Committee on Ways & Means (originally sponsored by Senators Ranker, Rolfes, Van De Wege, Chase, Carlyle, Saldaña, Dhingra, Darneille, Wellman, Keiser, Billig, Hunt, Conway, Palumbo and Kuderer).

**Brief Summary of Second Substitute Bill**

- Prohibits the Department of Natural Resources (DNR) from issuing or renewing any leases, or otherwise authorizing the use of state-owned aquatic lands for the purpose of Atlantic salmon aquaculture.
- Prohibits the Department of Ecology (Ecology), under its water pollution control authority, and the Department of Fish and Wildlife (DFW) from authorizing or permitting any activities related to Atlantic salmon aquaculture after the expiration date of existing lands leases.
- Directs the Ecology, DNR, and DFW to update existing guidance and resources on planning for and permitting commercial marine net pen aquaculture.
- Requires any marine finfish aquaculture facility permitted by the WDFW to be inspected by a marine engineering firm periodically.
- Specifies that separation from employment that results from the lease and permitting prohibitions is a qualifying event for the purpose of dislocated worker eligibility.

**Hearing Date:** 2/22/18

**Staff:** Rebecca Lewis (786-7339).

**Background:**

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

### Atlantic Salmon Aquaculture.

Aquaculture is the process of growing, farming, or cultivating aquatic products in marine or freshwater environments. Aquatic products include plants, shellfish, and finfish. One species of finfish raised in Washington's marine waters is Atlantic salmon. Atlantic salmon are initially hatched and reared in a freshwater environment until they are ready for the marine environment, at which point they are transferred to net pens in marine waters, where they are held until reaching market size.

In Washington, Atlantic salmon are raised in floating commercial net pen facilities located at eight different locations in Puget Sound and the Strait of Juan de Fuca. All eight farms are sited on aquatic lands owned by the State of Washington, managed by the Department of Natural Resources (DNR), and leased by a commercial finfish farm operator.

### Aquatic Land Lease Requirements.

State-owned aquatic lands include approximately 2,000 square miles of beaches, tidelands, and bedlands throughout the marine waters of Puget Sound and along the Strait of Juan de Fuca and the Pacific Ocean coast, as well as most of the navigable rivers, streams and lakes. The DNR manages the state's aquatic lands and issues leases for a variety of activities and projects that take place on such lands. Potential lessees must obtain all permits necessary to conduct a proposed activity or project before the DNR may authorize the activity or project on leased land.

### Marine Finfish Aquaculture Permitting.

In addition to local permits and federal permits through the U.S. Army Corps of Engineers, U.S. Coast Guard, and Food and Drug Administration, there are four main state permits or approvals necessary to conduct net pen aquaculture in Washington's marine waters:

- a National Pollutant Discharge Elimination System (NPDES) permit through the Department of Ecology (Ecology);
- an Aquatic Farm Registration through the Department of Fish and Wildlife (WDFW);
- a Marine Finfish Aquaculture Permit through the WDFW; and
- Fish Transport Permits through the WDFW.

#### *National Pollutant Discharge Elimination System.*

The federal Clean Water Act establishes the NPDES, which regulates discharges of pollutants to surface waters. In Washington, NPDES permitting authority is delegated to the state, allowing the Ecology to issue NPDES permits. The NPDES permits are issued for terms of no more than five years at a time. Wastewater discharge permits place limits on the quantity and type of contaminants that may be discharged. There are several plans and reports addressing accidental fish release and pollution and disease control required as a part of the NPDES permit. These include an accidental fish release response plan and a fish release prevention and monitoring plan, both coordinated with WDFW. Marine finfish farms that harvest more than 20,000 pounds of fish per year, or that feed more than 5,000 pounds of fish food per month, must obtain an NPDES permit from the Ecology.

#### *Aquatic Farm Registration.*

The DFW is required to register each aquatic farm, and to maintain a database of aquatic farm registrations. Each aquatic farmer must renew their registration annually and provide a quarterly report on the farm's monthly production including species cultured, quantity harvested for sale, and unit value. Reporting of aquaculture activity during the previous calendar year constitutes renewal for the following year. Additionally, the DFW and the Department of Agriculture have developed a disease inspection and control program for aquatic farmers.

*Marine Finfish Aquaculture Permit.*

An aquatic farmer must obtain a Marine Finfish Aquaculture Permit, valid for 5 years, from the WDFW in order to raise any species of marine finfish in net pens in Washington's marine waters. The aquatic farmer must include an operations plan, escape prevention plan, and an escape reporting and recapture plan with the Marine Finfish Aquaculture Permit application.

*Live Fish Transport Permit.*

In order to transport live fish or eggs into or within the state, a person must obtain a Live Fish Transport Permit from the WDFW to ensure that:

- fish or eggs brought into the state are free from reportable fish pathogens;
- aquatic invasive species are not shipped with the fish to be transported; and
- undesirable species do not cause harm to native species.

A Live Fish Transport Permit is required each time fish or eggs are to be transported into or within the state.

Guidance for net pen aquaculture.

The State of Washington, through the Departments of Agriculture, Ecology, and Fish and Wildlife, with assistance from the National Center for Coastal Ocean Science, the Northwest Indian Fisheries Commission, and the Port Gamble S'Klallam Tribe, has begun to research and prepare new guidelines for commercial salmon farms in Washington. The purpose of the guidelines is to build the state's knowledge about the commercial salmon farming industry, deliver science-based planning tools to regulators and industry, and contribute to protecting native Pacific salmon.

Dislocated Workers.

The Training Benefits program, administered by the Employment Security Department, provides extended unemployment benefits while a person participates in approved training for another career.

**Summary of Bill:**

Atlantic Salmon Aquaculture, Aquatic Land Leases, and Permitting.

The Department of Natural Resources may not enter into any new lease or use authorization, or renew or extend any lease or use authorization for Atlantic salmon aquaculture on state-owned aquatic lands.

The DFW and Ecology may only authorize or permit Atlantic salmon aquaculture activities that are authorized under a current lease of state-owned aquatic lands. The DFW and Ecology may not permit any Atlantic salmon aquaculture activities after the expiration date of current leases. This requirement covers authorization or permits issued:

- by DFW, generally;
- by Ecology under its water pollution control authority generally, and specifically for waste discharges from marine finfish rearing facilities;
- under statutes regulating aquatic farm disease inspection and control, specifically;
- under statutes governing marine finfish aquaculture escapement prevention, management planning, and recapture administered by the DFW, specifically; and
- for fish and wildlife possession and transportation administered by the DFW, specifically.

Any marine finfish aquaculture facility permitted by the DFW must be inspected by a marine engineering firm approximately every two years, when net pens are fallow, at the expense of the finfish facility operator. The engineering firm must be hired by the operator and approved by the DFW. Inspections must include topside and mooring assessments related to escape potential, structural integrity, permit compliance, and operations. Net pen facilities must be found in good working order to receive fish, and the Director of DFW may require the removal of fish, or may deny a fish transport permit, if a facility is found to be in imminent danger of collapse.

#### Guidance for Net Pen Aquaculture.

The DFW, DNR, and Ecology must continue the interagency effort to update guidance for planning and permitting of commercial marine net pen aquaculture using new scientific information that has emerged since the current guidelines were developed. The guidance must address several topics including local and state regulatory requirements and enforcement, water quality, and impacts to native species, and must be completed by June 30, 2019.

#### Dislocated Workers.

Separation from employment that may result from the lease and permitting prohibitions is a qualifying event for the purpose of dislocated worker eligibility.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.