

SENATE BILL REPORT

SB 6086

As of January 25, 2018

Title: An act relating to protecting the state's marine waters from the release of nonnative finfish from marine finfish aquaculture sites.

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

Sponsors: Senators Ranker, Rolfes, Van De Wege, Chase, Carlyle, Saldaña, Dhingra, Darneille, Wellman, Keiser, Billig, Hunt, Conway, Palumbo and Kuderer.

Brief History:

Committee Activity: Agriculture, Water, Natural Resources & Parks: 1/09/18, 1/11/18 [DPS-WM, DNP, w/oRec].

Ways & Means: 1/25/18.

Brief Summary of First Substitute Bill

- Prohibits the Department of Natural Resources (DNR) from entering into a new, or renewing or extending an existing, lease or use authorization that involves marine finfish aquaculture of Atlantic salmon or other nonnative finfish.
- Prohibits the Department of Fish and Wildlife (DFW) and the Department of Ecology (ECY), under its water pollution control authority, from authorizing or permitting activities or operations involving marine finfish aquaculture of Atlantic salmon or other nonnative finfish after the expiration date for the existing aquatic lands lease.
- Includes conforming amendments to several specific regulatory statutes administered by DFW and ECY.
- Directs ECY, DNR, and DFW to update existing guidance and resources on planning for and permitting commercial marine net pen aquaculture, and provides for a study of the ecological impacts of the 2017 Atlantic salmon escapement.

SENATE COMMITTEE ON AGRICULTURE, WATER, NATURAL RESOURCES & PARKS

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.

Majority Report: That Substitute Senate Bill No. 6086 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Van De Wege, Chair; McCoy, Vice Chair; Nelson.

Minority Report: Do not pass.

Signed by Senator Honeyford.

Minority Report: That it be referred without recommendation.

Signed by Senator Warnick, Ranking Member.

Staff: Curt Gavigan (786-7437)

SENATE COMMITTEE ON WAYS & MEANS

Staff: Jed Herman (786-7346)

Background: Leases and Use Authorizations for State-Owned Aquatic Lands. The Legislature has designated the Department of Natural Resources (DNR) as the manager of state-owned aquatic lands. In managing these lands, DNR must support a balance of statutory goals including encouraging public access, fostering water-dependent uses, utilizing renewable resources, protecting the environment, and generating revenue.

DNR has general leasing authority for aquatic lands. The Legislature has directed DNR, however, to favor water-dependent uses. A water dependent use is a use that cannot logically exist in any location but on water. Aquaculture leases may be for up to 30 years in length.

State Permitting and Authorization for Commercial Marine Finfish Aquaculture. In addition to federal and local permits, state agencies administer several permits and authorizations that apply to commercial marine finfish aquaculture activities. These include, among others:

- National Pollutant Discharge Elimination System permits administered by ECY to regulate pollution discharges;
- Marine Finfish Aquaculture permits administered by DFW, which also require an approved escape prevention, reporting, and recapture plan; and
- Fish Transport permits administered by DFW to protect aquaculture products and native finfish from disease.

Summary of Bill (First Substitute): Aquatic lands use authorization. DNR may not enter into a new lease or other use authorization that involves marine finfish aquaculture of Atlantic salmon or other nonnative finfish. Additionally, DNR may not renew or extend an existing lease or use authorization that involves those same activities.

State issued permits. Certain agencies and permitting programs may only authorize or permit marine finfish aquaculture of Atlantic salmon or other nonnative finfish where it is an authorized use under an existing DNR aquatic lands lease. In these cases, the agencies may not authorize or permit these activities or operations after the expiration date of that existing aquatic lands lease. This requirement covers authorization or permits issued:

- by DFW, generally;

- by ECY 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 DFW, specifically; and
- for fish and wildlife possession and transportation administered by DFW, specifically.

Other provisions. ECY, DNR, and DFW must update current guidance and informational resources on commercial marine net pen aquaculture designed to assist industry and government agencies in planning and permitting these activities. This project must be completed by June 30, 2019. In doing so, the agencies must:

- utilize new scientific information that has emerged since existing guidance was developed;
- address topics including local shoreline permitting, water quality, impacts on native species, and interagency coordination in permitting, inspections, and enforcement; and
- design the guidance to eliminate escapements and negative impacts to water quality and native populations.

The bill establishes a study on the ecological impacts of the 2017 Atlantic salmon escapement to native salmon stocks and water quality. The study must be conducted by ECY, DNR, and DFW, in collaboration with other relevant agencies and participating tribes, and be completed by September 1, 2021.

A reoccurring facility inspection process is created for operations involving marine finfish aquaculture of Atlantic salmon or other nonnative finfish. Inspections must be done at the operators expense and at approximately two year intervals. A net pen facility must be found in good working order to receive fish. If the facility is in imminent danger, DFW may require the operator to remove fish or deny a fish transfer permit.

Separation from employment as a result of this bill is specifically listed as a qualifying event to make someone a dislocated worker for purposes of the Training Benefits Program. This program, administered by the Employment Security Department, provides extended unemployment benefits while a person participates in approved training for another career.

EFFECT OF CHANGES MADE BY AGRICULTURE, WATER, NATURAL RESOURCES & PARKS COMMITTEE (First Substitute):

- Provides that DFW and ECY may only authorize or permit marine finfish aquaculture of Atlantic salmon or other nonnative finfish where it is an authorized use under an existing DNR aquatic lands lease. In these cases, DFW and ECY may not authorize or permit these activities or operations after the expiration date of that existing aquatic lands lease.
- Establishes a study on the ecological impacts of the 2017 Atlantic salmon escapement to native salmon stocks and water quality.
- Establishes a reoccurring facility inspection process and provides DFW with authorities relative to disposal or authorization of transfer of fish when it

determines a facility is not in good working order or there is an immediate danger.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill (Agriculture, Water, Natural Resources & Parks): *The committee recommended a different version of the bill than what was heard.* PRO: The state has obligations to tribes that are the supreme law of the land, and should not risk its resources for this practice. Net pen aquaculture presents sea lice issues in Canada, and it is appropriate to question whether it can happen elsewhere. The fish escapement is a wake up call, although not a surprise since it has happened before. If they get established in Puget Sound, they will be difficult to remove. Net pens also pose water quality and marine debris issues. The loss of 80 jobs is an issue, but many more than that have historically made a living from commercial fisheries.

CON: Aquaculture is a very valuable way to produce fish, and a necessary industry to meet fish consumption needs. The idea that net pens are disease incubators is untrue and they do not pose a significant environmental threat. Atlantic salmon raised in net pens have advantages since they do not interbreed with Pacific salmon. The Legislature should use a more collaborative approach than is presented in this bill. The bill will eliminate rural jobs, and this company has been a good neighbor to the community. It is also a supporter of a clean environment, as the industry itself relies on clean water.

OTHER: The agencies would like to work with the Legislature to determine what is a "new activity" covered under the bill, and whether they can update current permits.

Persons Testifying (Agriculture, Water, Natural Resources & Parks): PRO: Bob Lake, Willapa Bay Regional, Fisheries Enhancement Group, Willapa Bay Gillnetters; Jay Julius, Lummi Nation Chairman; Kurt Beardsly, Wild Fish Conservancy; Bruce Wishart, Sierra Club; Neil Beaver, Audubon; Sophia Ressler, Puget Soundkeeper; Bryce Yadon, Futurewise; Ray Honea, Vice President, Puget Sound Harvest Association; Bob Lake, commercial fisherman; David Harsila, commercial fisherman; Evan Cornwall-Brady, commercial fisherman; Matt Marinkovich, commercial fisherman; Troy Olsen, member, Lummi Nation.

CON: Troy Nichols, Cooke Aquaculture; Joel Richardson, Cooke Aquaculture; Innes Weir, Cooke Aquaculture; Tom Glaspie, Cooke Aquaculture; Randy Hodgkin, Cooke Aquaculture; Brett Raemer, Cooke Aquaculture; Stephanie Ross, citizen; Hugh Mitchell, private veterinarian; Jack Field, Washington Fish Growers Association; John Dentler, Troutlodge; Dan Swecker, Washington Fish Growers Association.

OTHER: Rich Doenges, Department of Ecology; Amy Windrope, Washington Department of Fish & Wildlife.

Persons Signed In To Testify But Not Testifying (Agriculture, Water, Natural Resources & Parks): No one.

Staff Summary of Public Testimony on First Substitute (Ways & Means): PRO: This bill is needed as evidenced by a support letter signed by 21 tribes. Native salmon are sacred, they need to be protected from non-native fish. We know enough; we do not need further study to shut down Atlantic salmon farming. Atlantic salmon bring disease and other impacts to our native fish. State agencies have already expended more money monitoring the escapement than is coming in from revenue. Please end Atlantic salmon farming. Let us not put our native fish at risk. Tax the non-native fish so they cost more than our native fish. Support pulling section 11, we already know enough. There are disease implications because the net pens are too close together. Let us prevent harm now so we do not have to clean up later. Atlantic salmon have colonized elsewhere, if they do here then it will undermine all the investments the state has made for recovering native salmon.

CON: The fiscal impacts from this bill are far greater than what is indicated as an impact to the state. Atlantic salmon do not crossbreed, nor do they feed on native food sources. There are no documented disease impacts in North America. We need aquaculture to meet the protein needs of our growing population. This bill will have a direct impact on 80 jobs and an indirect impact on over 100 jobs. Current leases contribute over \$200,000 in lease revenue to the state and \$223,000 in property taxes to local government. I fundamentally disagree with the policy of the bill. The bill will harm our competitiveness in the world economy and contribute to our national deficit. Atlantic salmon pose no disease or competition risk.

OTHER: Section 11 drives the fiscal impacts; I am happy to work with the sponsor.

Persons Testifying (Ways & Means): PRO: Senator Kevin Ranker, Prime Sponsor; Jennifer Towne, Cypress Island Home Owners Association; Daryl Williams, Tulalip Tribes; Bob Lake, Coalition of Coastal Fisheries; Robert Upham; Lisa Wilson, Lummi Nation Natural Resources; G.I. James, Lummi Nation Natural Resources; Kurt Beardslee, Wild Fish Conservancy; Bryce Yadon, Futurewise; Neil Beaver, Audubon Washington.

CON: Jack Field, Washington Fish Growers Association; Dan Swecker, Washington Fish Growers Association; Troy Nichols, Cooke Aquaculture, Inc.; Hugh Mitchell, citizen.

OTHER: Dr. Kenneth Warheit, Department of Fish & Wildlife; Mary Catherine McAleer, Association of Washington Business.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.