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**SUBSTITUTE SENATE BILL 6086**

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**State of Washington**

**65th Legislature**

**2018 Regular Session**

**By** Senate Agriculture, Water, Natural Resources & Parks (originally sponsored by Senators Ranker, Rolfes, Van De Wege, Chase, Carlyle, Saldaña, Dhingra, Darneille, Wellman, Keiser, Billig, Hunt, Conway, Palumbo, and Kuderer)

READ FIRST TIME 01/12/18.

1 AN ACT Relating to protecting the state's marine waters from the  
2 release of nonnative finfish from marine finfish aquaculture sites;  
3 amending RCW 77.115.010, 77.115.030, 77.115.040, 77.125.030,  
4 77.12.047, 90.48.220, and 50.04.075; adding a new section to chapter  
5 79.105 RCW; adding new sections to chapter 77.12 RCW; adding a new  
6 section to chapter 90.48 RCW; creating new sections; and providing  
7 expiration dates.

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

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

12 (1) On and after the effective date of this section, the  
13 department may not enter into a new lease or other use authorization  
14 where the use includes marine finfish aquaculture of Atlantic salmon  
15 or other nonnative finfish.

16 (2) On and after the effective date of this section, the  
17 department may not renew or extend a lease or other use authorization  
18 in existence on the effective date of this section where the use  
19 includes marine finfish aquaculture of Atlantic salmon or other  
20 nonnative finfish.

1        NEW SECTION.    **Sec. 2.**    A new section is added to chapter 77.12  
2    RCW to read as follows:

3        (1) The department may only authorize or permit marine finfish  
4    aquaculture of Atlantic salmon or other nonnative finfish where it is  
5    an authorized use under a lease of state-owned aquatic lands in  
6    effect on the effective date of this section.

7        (2) For marine finfish aquaculture of Atlantic salmon or other  
8    nonnative finfish that qualifies under subsection (1) of this  
9    section, the department may not authorize or permit any such  
10   activities or operations after the expiration date of the relevant  
11   lease of state-owned aquatic lands in effect on the effective date of  
12   this section.

13       (3) For purposes of this section, "state-owned aquatic lands" has  
14   the meaning provided in RCW 79.105.060.

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

17       (1) The department may only authorize or permit marine finfish  
18    aquaculture of Atlantic salmon or other nonnative finfish where it is  
19    an authorized use under a lease of state-owned aquatic lands in  
20    effect on the effective date of this section.

21       (2) For marine finfish aquaculture of Atlantic salmon or other  
22    nonnative finfish that qualifies under subsection (1) of this  
23    section, the department may not authorize or permit any such  
24    activities or operations after the expiration date of the relevant  
25    lease of state-owned aquatic lands in effect on the effective date of  
26    this section.

27       (3) For purposes of this section, "state-owned aquatic lands" has  
28   the meaning provided in RCW 79.105.060.

29       **Sec. 4.**    RCW 77.115.010 and 2000 c 107 s 122 are each amended to  
30    read as follows:

31       (1) The director of agriculture and the director shall jointly  
32    develop a program of disease inspection and control for aquatic  
33    farmers as defined in RCW 15.85.020. The program shall be  
34    administered by the department under rules established under this  
35    section. The purpose of the program is to protect the aquaculture  
36    industry and wildstock fisheries from a loss of productivity due to  
37    aquatic diseases or maladies. As used in this section "diseases"  
38    means, in addition to its ordinary meaning, infestations of parasites

1 or pests. The disease program may include, but is not limited to, the  
2 following elements:

3 (a) Disease diagnosis;

4 (b) Import and transfer requirements;

5 (c) Provision for certification of stocks;

6 (d) Classification of diseases by severity;

7 (e) Provision for treatment of selected high-risk diseases;

8 (f) Provision for containment and eradication of high-risk  
9 diseases;

10 (g) Provision for destruction of diseased cultured aquatic  
11 products;

12 (h) Provision for quarantine of diseased cultured aquatic  
13 products;

14 (i) Provision for coordination with state and federal agencies;

15 (j) Provision for development of preventative or control  
16 measures;

17 (k) Provision for cooperative consultation service to aquatic  
18 farmers; and

19 (l) Provision for disease history records.

20 (2) The commission shall adopt rules implementing this section.  
21 However, such rules shall have the prior approval of the director of  
22 agriculture and shall provide therein that the director of  
23 agriculture has provided such approval. The director of agriculture  
24 or the director's designee shall attend the rule-making hearings  
25 conducted under chapter 34.05 RCW and shall assist in conducting  
26 those hearings. The authorities granted the department by these rules  
27 and by RCW 77.12.047(1)(g), 77.60.060, 77.60.080, 77.65.210,  
28 (~~77.115.020~~,) 77.115.030, and 77.115.040 constitute the only  
29 authorities of the department to regulate private sector cultured  
30 aquatic products and aquatic farmers as defined in RCW 15.85.020.  
31 Except as provided in subsection (3) of this section, no action may  
32 be taken against any person to enforce these rules unless the  
33 department has first provided the person an opportunity for a  
34 hearing. In such a case, if the hearing is requested, no enforcement  
35 action may be taken before the conclusion of that hearing.

36 (3) The rules adopted under this section shall specify the  
37 emergency enforcement actions that may be taken by the department,  
38 and the circumstances under which they may be taken, without first  
39 providing the affected party with an opportunity for a hearing.  
40 Neither the provisions of this subsection nor the provisions of

1 subsection (2) of this section shall preclude the department from  
2 requesting the initiation of criminal proceedings for violations of  
3 the disease inspection and control rules.

4 (4) A person shall not violate the rules adopted under subsection  
5 (2) or (3) of this section or violate RCW 77.115.040.

6 (5) In administering the program established under this section,  
7 the department shall use the services of a pathologist licensed to  
8 practice veterinary medicine.

9 (6) The director in administering the program shall not place  
10 constraints on or take enforcement actions in respect to the  
11 aquaculture industry that are more rigorous than those placed on the  
12 department or other fish-rearing entities.

13 (7) The department must implement this section consistent with  
14 section 2 of this act.

15 **Sec. 5.** RCW 77.115.030 and 2000 c 107 s 124 are each amended to  
16 read as follows:

17 (1) The director shall consult regarding the disease inspection  
18 and control program established under RCW 77.115.010 with federal  
19 agencies and Indian tribes to assure protection of state, federal,  
20 and tribal aquatic resources and to protect private sector cultured  
21 aquatic products from disease that could originate from waters or  
22 facilities managed by those agencies.

23 (2) With regard to the program, the director may enter into  
24 contracts or interagency agreements for diagnostic field services  
25 with government agencies and institutions of higher education and  
26 private industry.

27 (3) The director shall provide for the creation and distribution  
28 of a roster of biologists having a specialty in the diagnosis or  
29 treatment of diseases of fish or shellfish. The director shall adopt  
30 rules specifying the qualifications which a person must have in order  
31 to be placed on the roster.

32 (4) The department must implement this section consistent with  
33 section 2 of this act.

34 **Sec. 6.** RCW 77.115.040 and 2011 c 339 s 37 are each amended to  
35 read as follows:

36 (1) All aquatic farmers, as defined in RCW 15.85.020, shall  
37 register with the department. The application fee is one hundred five  
38 dollars. The director shall assign each aquatic farm a unique

1 registration number and develop and maintain in an electronic  
2 database a registration list of all aquaculture farms. The department  
3 shall establish procedures to annually update the aquatic farmer  
4 information contained in the registration list. The department shall  
5 coordinate with the department of health using shellfish growing area  
6 certification data when updating the registration list.

7 (2) Registered aquaculture farms shall provide the department  
8 with the following information:

9 (a) The name of the aquatic farmer;

10 (b) The address of the aquatic farmer;

11 (c) Contact information such as telephone, fax, web site, and  
12 email address, if available;

13 (d) The number and location of acres under cultivation, including  
14 a map displaying the location of the cultivated acres;

15 (e) The name of the landowner of the property being cultivated or  
16 otherwise used in the aquatic farming operation;

17 (f) The private sector cultured aquatic product being propagated,  
18 farmed, or cultivated; and

19 (g) Statistical production data.

20 (3) The state veterinarian shall be provided with registration  
21 and statistical data by the department.

22 (4) The department must implement this section consistent with  
23 section 2 of this act.

24 **Sec. 7.** RCW 77.125.030 and 2001 c 86 s 3 are each amended to  
25 read as follows:

26 The director, in cooperation with the marine finfish aquatic  
27 farmers, shall develop proposed rules for the implementation,  
28 administration, and enforcement of marine finfish aquaculture  
29 programs. In developing such proposed rules, the director must use a  
30 negotiated rule-making process pursuant to RCW 34.05.310. The  
31 proposed rules shall be submitted to the appropriate legislative  
32 committees by January 1, 2002, to allow for legislative review of the  
33 proposed rules. The proposed rules shall include the following  
34 elements:

35 (1) Provisions for the prevention of escapes of cultured marine  
36 finfish aquaculture products from enclosures, net pens, or other  
37 rearing vessels;

38 (2) Provisions for the development and implementation of  
39 management plans to facilitate the most rapid recapture of live

1 marine finfish aquaculture products that have escaped from  
2 enclosures, net pens, or other rearing vessels, and to prevent the  
3 spread or permanent escape of these products;

4 (3) Provisions for the development of management practices based  
5 on the latest available science, to include:

6 (a) Procedures for inspections of marine aquatic farming  
7 locations on a regular basis to determine conformity with law and the  
8 rules of the department relating to the operation of marine aquatic  
9 farming locations; and

10 (b) Operating procedures at marine aquatic farming locations to  
11 prevent the escape of marine finfish, to include the use of net  
12 antifoulants;

13 (4) Provisions for the eradication of those cultured marine  
14 finfish aquaculture products that have escaped from enclosures, net  
15 pens, or other rearing vessels found spawning in state waters;

16 (5) Provisions for the determination of appropriate species,  
17 stocks, and races of marine finfish aquaculture products allowed to  
18 be cultured at specific locations and sites;

19 (6) Provisions for the development of an Atlantic salmon watch  
20 program similar to the one in operation in British Columbia, Canada.  
21 The program must provide for the monitoring of escapes of Atlantic  
22 salmon from marine aquatic farming locations, monitor the occurrence  
23 of naturally produced Atlantic salmon, determine the impact of  
24 Atlantic salmon on naturally produced and cultured finfish stocks,  
25 provide a focal point for consolidation of scientific information,  
26 and provide a forum for interaction and education of the public; and

27 (7) Provisions for the development of an education program to  
28 assist marine aquatic farmers so that they operate in an  
29 environmentally sound manner.

30 (8) The department must implement this section consistent with  
31 section 2 of this act.

32 **Sec. 8.** RCW 77.12.047 and 2017 c 159 s 2 are each amended to  
33 read as follows:

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

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

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

1 (c) Specifying and defining the gear, appliances, or other  
2 equipment and methods that may be used to take wildlife, fish, or  
3 shellfish, and specifying the times, places, and manner in which the  
4 equipment may be used or possessed.

5 (d) Regulating the importation, transportation, possession,  
6 disposal, landing, and sale of wildlife, fish, shellfish, or seaweed  
7 within the state, whether acquired within or without the state.  
8 However, this authority must be exercised consistent with sections 2  
9 and 13 of this act. Additionally, the rules of the department must  
10 prohibit any person, including department staff, from translocating a  
11 live elk from an area with elk affected by hoof disease to any other  
12 location except:

13 (i) Consistent with a process developed by the department with  
14 input from the affected federally recognized tribes for translocation  
15 for monitoring or hoof disease management purposes; or

16 (ii) Within an elk herd management plan area affected by hoof  
17 disease.

18 (e) Regulating the prevention and suppression of diseases and  
19 pests affecting wildlife, fish, or shellfish.

20 (f) Regulating the size, sex, species, and quantities of  
21 wildlife, fish, or shellfish that may be taken, possessed, sold, or  
22 disposed of.

23 (g) Specifying the statistical and biological reports required  
24 from fishers, dealers, boathouses, or processors of wildlife, fish,  
25 or shellfish.

26 (h) Classifying species of marine and freshwater life as food  
27 fish or shellfish.

28 (i) Classifying the species of wildlife, fish, and shellfish that  
29 may be used for purposes other than human consumption.

30 (j) Regulating the taking, sale, possession, and distribution of  
31 wildlife, fish, shellfish, or deleterious exotic wildlife.

32 (k) Establishing game reserves and closed areas where hunting for  
33 wild animals or wild birds may be prohibited.

34 (l) Regulating the harvesting of fish, shellfish, and wildlife in  
35 the federal exclusive economic zone by vessels or individuals  
36 registered or licensed under the laws of this state.

37 (m) Authorizing issuance of permits to release, plant, or place  
38 fish or shellfish in state waters.

1 (n) Governing the possession of fish, shellfish, or wildlife so  
2 that the size, species, or sex can be determined visually in the  
3 field or while being transported.

4 (o) Other rules necessary to carry out this title and the  
5 purposes and duties of the department.

6 (2)(a) Subsections (1)(a), (b), (c), (d), and (f) of this section  
7 do not apply to private tideland owners and lessees and the immediate  
8 family members of the owners or lessees of state tidelands, when they  
9 take or possess oysters, clams, cockles, borers, or mussels,  
10 excluding razor clams, produced on their own private tidelands or  
11 their leased state tidelands for personal use.

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

15 (3) Except for subsection (1)(g) of this section, this section  
16 does not apply to private sector cultured aquatic products as defined  
17 in RCW 15.85.020. Subsection (1)(g) of this section does apply to  
18 such products.

19 **Sec. 9.** RCW 90.48.220 and 1993 c 296 s 1 are each amended to  
20 read as follows:

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

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

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



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

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

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

15 NEW SECTION. Sec. 10. (1) The departments of ecology, natural  
16 resources, and fish and wildlife must continue the existing effort to  
17 update guidance and informational resources to industry and  
18 governments for planning and permitting commercial marine net pen  
19 aquaculture.

20 (2) The effort must utilize new scientific information that has  
21 emerged since the current state guidance that dates from the late  
22 1980s through 1990, and address topics including local shoreline  
23 permitting, water quality, impacts on native fish, shellfish, and  
24 wildlife, and interagency coordination in permitting, inspections,  
25 and enforcement. The guidance must be designed to eliminate  
26 commercial marine net pen escapement and negative impacts to water  
27 quality and native fish, shellfish, and wildlife.

28 (3) The guidance and resources must be completed by June 30,  
29 2019.

30 (4) This section expires December 31, 2020.

31 NEW SECTION. Sec. 11. (1) The departments of ecology, natural  
32 resources, and fish and wildlife must, in collaboration with other  
33 relevant agencies and participating tribes, conduct a study designed  
34 to understand the ecological impacts to Puget Sound native salmon  
35 stocks, and impacts to water quality and sediments, that resulted  
36 from the 2017 Atlantic salmon escapement.

37 (2) The guidance and resources must be provided to the  
38 appropriate committees of the legislature by September 1, 2021.

1 (3) This section expires June 30, 2022.

2 **Sec. 12.** RCW 50.04.075 and 2011 c 4 s 12 are each amended to  
3 read as follows:

4 (1) With respect to claims with an effective date prior to July  
5 1, 2012, "dislocated worker" means any individual who:

6 (a) Has been terminated or received a notice of termination from  
7 employment;

8 (b) Is eligible for or has exhausted entitlement to unemployment  
9 compensation benefits; and

10 (c) Is unlikely to return to employment in the individual's  
11 principal occupation or previous industry because of a diminishing  
12 demand for their skills in that occupation or industry.

13 (2) With respect to claims with an effective date on or after  
14 July 1, 2012, "dislocated worker" means any individual who:

15 (a) Has been involuntarily and indefinitely separated from  
16 employment as a result of a permanent reduction of operations at the  
17 individual's place of employment, ~~((or))~~ has separated from a  
18 declining occupation, or has separated from employment as a result of  
19 this act; and

20 (b) Is eligible for or has exhausted entitlement to unemployment  
21 compensation benefits.

22 NEW SECTION. **Sec. 13.** A new section is added to chapter 77.12  
23 RCW to read as follows:

24 (1) For marine finfish aquaculture of Atlantic salmon or other  
25 nonnative finfish authorized or permitted consistent with section 2  
26 of this act, the facility operator must hire, at their own expense, a  
27 marine engineering firm approved by the department to conduct  
28 inspections. Inspections must occur approximately every two years,  
29 when net pens are fallow, and must include topside and mooring  
30 assessments related to escapement potential, structural integrity,  
31 permit compliance, and operations.

32 (2) Any net pen facility must be found to be in good working  
33 order to receive fish.

34 (3) If the facility is found to be in imminent danger of collapse  
35 or release of Atlantic salmon or other nonnative finfish, the

1 director may require the operator to remove fish or deny a fish  
2 transfer permit.

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