

SENATE BILL REPORT

SB 5561

As Reported By Senate Committee On:
Natural Resource & Parks, February 13, 1997

Title: An act relating to regulation of geoduck harvesting.

Brief Description: Shifting the regulation of geoduck harvesting from the department of natural resources to the department of fish and wildlife.

Sponsors: Senators Swecker and Snyder.

Brief History:

Committee Activity: Natural Resources & Parks: 2/18/97, 2/27/97 [DPS].

SENATE COMMITTEE ON NATURAL RESOURCES & PARKS

Majority Report: That Substitute Senate Bill No. 5561 be substituted therefor, and the substitute bill do pass.

Signed by Senators Oke, Chair; Rossi, Vice Chair; Hargrove, Jacobsen, Morton, Prentice, Roach, Snyder, Stevens and Swecker.

Staff: Aldo Melchiori (786-7439)

Background: Prior to emergence of the dive fisheries in the 1970s, harvesting of geoducks occurred only on state leased or privately held aquatic farms. By 1991, over 50 percent of all geoducks on the market came from nontribal Washington divers alone. By 1996, Washington geoducks from both nontribal and tribal divers accounted for less than 15 percent of the total. Tribal fisheries are allotted 50 percent of the harvestable geoducks by court order.

The Department of Natural Resources currently designates harvest tracts, administers geoduck harvest agreements, and enforces commercial violations.

It is unlawful to commercially harvest geoducks from bottoms shallower than 18 feet below the mean lower low water, or that lie in an area bounded by the line of ordinary high tide and a line 200 yards seaward from and parallel to the ordinary high tide line.

It is unlawful to commercially harvest geoduck clams without a geoduck fishery license issued by the Department of Fish and Wildlife. Only a person who has entered into a geoduck harvesting agreement with the Department of Natural Resources may hold a license. Harvesting must occur inside the boundaries of the public lands designated in, and only to the harvest ceiling set by, the underlying harvest agreements. Licenses expire when the underlying harvest agreement terminates.

The Director of the Department of Natural Resources determines the number of licenses that may be issued for each harvest area and the number of units of gear under each license.

Federal OSHA regulations are enforced by revoking the license for violations. Divers are considered employees as defined by OSHA.

Summary of Substitute Bill: The Department of Natural Resources designates harvest tracts, administers geoduck harvest agreements, and enforces commercial violations.

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It is unlawful to commercially harvest geoduck clams without a geoduck fishery license issued by the Department of Fish and Wildlife.

The Director of Fish and Wildlife appoints a three-member advisory review board to hear licensing cases. The three-member review board must be consulted on license application, selection, and issuance procedures.

Only a person who has entered into a geoduck harvesting agreement with the Department of Natural Resources may hold a license. Harvesting must occur inside the boundaries of the public lands designated in, and only to the harvest ceiling set by, the underlying harvest agreements. Licenses expire when the underlying harvest agreement terminates.

The Director of the Department of Natural Resources determines the number of licenses that may be issued for each harvest area and the number of units of gear under each license.

Once a harvest ceiling is established for an area/tract, the ceiling is divided equally between the number of geoduck license holders, with a harvesting agreement for that harvest area, to establish individual fishing quotas.

Federal OSHA regulations are enforced by revoking the license for violations. Divers are considered employees as defined by OSHA.

After July 1, 1997, no new geoduck fishery licenses may be issued. But, if fewer than 50 persons are eligible for licenses, the director may accept applications and determines by random selection the successful applicants.

Civil damages proceeds are applied in the same way as moneys received under harvesting agreements.

Substitute Bill Compared to Original Bill: The Department of Natural Resources (instead of the Department of Fish and Wildlife) designates harvest tracts, administers geoduck harvest agreements, and enforces commercial violations.

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All tax provisions in the original bill are stricken. RCW 76.96.906 and RCW 79.96.080 are not repealed.

Appropriation: None.

Fiscal Note: Requested on February 11, 1997.

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

Testimony For: The families of geoduck fishers depend upon this industry. Sixty percent of the value of geoducks presently goes to DNR at the fisher's expense. Canadian fishery works well and could be modeled. The industry needs to change to a free enterprise system regulated by fish and wildlife.

Testimony Against: This would change the current proprietary program into a regulatory program. Present wording excludes some long-time divers who have ben forced out in the last few years. Resource conservation would be more difficult and would increase supervisory costs to prevent poaching. Geoducks are similar to timber in that they take a long time to mature and are harvested in tracts.

Testified: PRO: Brad Nelson, Ken Sheppard, Steve LaCroix, John Lentz, Geoduck Harvesters Assn.; Doug McRae, Seabed Harvesters Assn.; Rod Carew (w/reservations); CON: Kaleen Cottingham, DNR; Bruce Crawford, WDFW.

