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**SUBSTITUTE SENATE BILL 5561**

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**State of Washington**

**55th Legislature**

**1997 Regular Session**

**By** Senate Committee on Natural Resources & Parks (originally sponsored by Senators Swecker and Snyder)

Read first time 02/28/97.

1 AN ACT Relating to regulation of geoduck harvesting; and amending  
2 RCW 75.30.050, 75.30.280, and 79.96.085.

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

4 **Sec. 1.** RCW 75.30.050 and 1995 c 269 s 3101 are each amended to  
5 read as follows:

6 (1) The director shall appoint three-member advisory review boards  
7 to hear cases as provided in RCW 75.30.060. Members shall be from:

8 (a) The commercial crab fishing industry in cases involving  
9 Dungeness crab ~~Puget Sound~~ fishery licenses;

10 (b) The commercial herring fishery in cases involving herring  
11 fishery licenses;

12 (c) The commercial sea urchin and sea cucumber fishery in cases  
13 involving sea urchin and sea cucumber dive fishery licenses;

14 (d) The commercial ocean pink shrimp industry (*Pandalus jordani*) in  
15 cases involving ocean pink shrimp delivery licenses; (~~and~~)

16 (e) The commercial coastal crab fishery in cases involving  
17 Dungeness crab ~~coastal~~ fishery licenses and Dungeness crab ~~coastal~~  
18 class B fishery licenses. The members shall include one person from  
19 the commercial crab processors, one Dungeness crab ~~coastal~~ fishery

1 license holder, and one citizen representative of a coastal community;  
2 and

3 (f) The commercial geoduck fishing industry in cases involving  
4 geoduck fishery licenses.

5 (2) Members shall serve at the discretion of the director and shall  
6 be reimbursed for travel expenses as provided in RCW 43.03.050,  
7 43.03.060, and 43.03.065.

8 **Sec. 2.** RCW 75.30.280 and 1993 c 340 s 46 are each amended to read  
9 as follows:

10 (1) It is unlawful to harvest geoduck clams commercially without a  
11 geoduck fishery license. This section does not apply to the harvest of  
12 private sector cultured aquatic products as defined in RCW 15.85.020.

13 (2) Only a person who has entered into a geoduck harvesting  
14 agreement with the department of natural resources under RCW 79.96.080  
15 may hold a geoduck fishery license.

16 (3) A geoduck fishery license authorizes no taking of geoducks  
17 outside the boundaries of the public lands designated in the underlying  
18 harvesting agreement, or beyond the harvest ceiling set in the  
19 underlying harvesting agreement.

20 (4) A geoduck fishery license expires when the underlying geoduck  
21 harvesting agreement terminates.

22 (5) The director shall determine the number of geoduck fishery  
23 licenses that may be issued for each geoduck harvesting agreement, the  
24 number of units of gear whose use the license authorizes, and the type  
25 of gear that may be used, subject to RCW 75.24.100. In making those  
26 determinations, the director shall seek to conserve the geoduck  
27 resource and prevent damage to its habitat.

28 (6) The holder of a geoduck fishery license and the holder's agents  
29 and representatives shall comply with all applicable commercial diving  
30 safety regulations adopted by the federal occupational safety and  
31 health administration established under the federal occupational safety  
32 and health act of 1970 as such law exists on May 8, 1979, 84 Stat. 1590  
33 et seq.; 29 U.S.C. Sec. 651 et seq. A violation of those regulations  
34 is a violation of this subsection. For the purposes of this section,  
35 persons who dive for geoducks are "employees" as defined by the federal  
36 occupational safety and health act. A violation of this subsection is  
37 grounds for suspension or revocation of a geoduck fishery license  
38 following a hearing under the procedures of chapter 34.05 RCW. The

1 department shall not suspend or revoke a geoduck fishery license if the  
2 violation has been corrected within ten days of the date the license  
3 holder receives written notice of the violation. If there is a  
4 substantial probability that a violation of the commercial diving  
5 standards could result in death or serious physical harm to a person  
6 engaged in harvesting geoduck clams, the department shall suspend the  
7 license immediately until the violation has been corrected. If the  
8 license holder is not the operator of the harvest vessel and has  
9 contracted with another person for the harvesting of geoducks, the  
10 department shall not suspend or revoke the license if the license  
11 holder terminates its business relationship with that person until  
12 compliance with this subsection is secured.

13 (7) After July 1, 1997, the director may not issue new geoduck  
14 fishery licenses. Only a person who has held the geoduck fishery  
15 license sought to be renewed for at least three of the six years 1991,  
16 1992, 1993, 1994, 1995, and 1996 may renew an existing license.

17 (8) If fewer than fifty persons are eligible for a geoduck fishery  
18 license, the director may accept applications for new licenses. The  
19 director shall determine by random selection the successful applicants  
20 for the additional licenses. The director shall adopt rules governing  
21 the application, selection, and issuance procedures for new geoduck  
22 fishery licenses, based upon recommendations of a board of review  
23 established under RCW 75.30.050.

24 (9) Geoduck fishery licenses are not transferable from one license  
25 holder to another except from parent to child, from spouse to spouse  
26 during marriage or as a result of marriage dissolution, or upon death  
27 of the license holder.

28 **Sec. 3.** RCW 79.96.085 and 1990 c 163 s 5 are each amended to read  
29 as follows:

30 (1) The department of natural resources shall designate the areas  
31 of aquatic lands owned by the state that are available for geoduck  
32 harvesting by licensed geoduck harvesters (~~in accordance with chapter~~  
33 79.90-RCW)).

34 (2) Once a harvest ceiling is established for each harvest area,  
35 the ceiling must be divided equally between the number of geoduck

- 1 fishery license holders, within each geoduck harvesting agreement, to
- 2 establish individual fishing quotas for each area.

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