

# HOUSE BILL REPORT

## HB 1499

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### As Reported by House Committee On:

Natural Resources

Appropriations

**Title:** An act relating to the regulation of marine fin fish aquaculture by the department of fish and wildlife.

**Brief Description:** Regulating marine fin fish aquaculture.

**Sponsors:** Representatives Jackley, Buck, Rockefeller, Eickmeyer, Sump, Doumit, Pennington and Dunn.

### Brief History:

#### Committee Activity:

Natural Resources: 2/12/01, 2/21/01 [DPS];

Appropriations: 2/26/01, 3/8/01 [DP2S(w/o sub NR)].

#### Brief Summary of Second Substitute Bill

- The director of the Department of Fish and Wildlife is required to develop proposed rules for the implementation, administration, and enforcement of marine fin fish aquaculture programs in cooperation with fin fish aquatic farmers.
- The proposed rules must be developed using negotiated rule making and submitted to the appropriate legislative committee by January 1, 2002 to allow for legislative review.
- The rules may be adopted no earlier than 30 days after the end of the 2002 regular legislative session.

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### HOUSE COMMITTEE ON NATURAL RESOURCES

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Doumit, Democratic Co-Chair; Sump, Republican Co-Chair; Pearson, Republican Vice Chair; Rockefeller, Democratic Vice Chair; Buck, Eickmeyer, Ericksen, Jackley, Murray and Pennington.

**Staff:** Bill Lynch (786-7092).

**Background:**

Concerns have been raised about the accidental release of Atlantic salmon into Puget Sound. The Department of Ecology regulates waste discharge from marine fin fish rearing facilities, but there are no rules which address preventing the escape or the recapture of these fish.

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**Summary of Substitute Bill:**

The director of the Department of Fish and Wildlife is required to develop proposed rules for the implementation, administration, and enforcement of marine fin fish aquaculture programs in cooperation with fin fish aquatic farmers. The proposed rules must be submitted to the appropriate legislative committee by January 1, 2002 to allow for legislative review. The rules may be adopted no earlier than 30 days after the end of the 2002 regular legislative session. The director must provide the appropriate legislative committees with a written progress report on the program by January 1, 2003.

The proposed rules must include provisions for: 1) developing and implementing management plans for the rapid recapture of live marine fin fish that have escaped, and to prevent the spread or permanent escape of these fish; 2) development of management practices based upon the latest available science; 3) eradication of those marine fin fish that have escaped and which spawn in state waters; 4) determining the appropriate species, stocks, and races of marine fin fish allowed to be cultured at specific locations and sites; 5) development of an Atlantic salmon watch program similar to the program currently operating in British Columbia, Canada; and 6) the development of an education program to assist marine aquatic farmers so that they can operate in an environmentally sound manner.

The proposed rules regarding the development of management practices must include procedures for inspections of marine aquatic farming locations on a regular basis, and operating procedures at marine aquatic farming locations to prevent the escape of marine fin fish and the use of net antifoulants.

The proposed rules regarding the establishment of an Atlantic salmon watch program must provide for monitoring of escapes of Atlantic salmon from marine aquatic farming locations, monitoring the occurrence of naturally produced Atlantic salmon, determination of the impact of Atlantic salmon on naturally produced and cultured fin fish stocks, a focal point for consolidation of scientific information, and a forum for interaction and education of the public.

A "marine aquatic farming location" is defined as a complete complex that may be

composed of various marine enclosures, net pens or other rearing vessels, food handling facilities, or other facilities related to rearing Atlantic salmon or other fin fish in marine waters.

**Substitute Bill Compared to Original Bill:**

The substitute bill requires the director to submit proposed rules on this program to the appropriate legislative committees to allow for legislative review. Instead of the rules taking effect by March 1, 2002, the rules may not be adopted any earlier than 30 days after the close of the 2002 regular legislative session. A reference to escapements in British Columbia is deleted.

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**Appropriation:** None.

**Fiscal Note:** Requested on February 1, 2001.

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

**Testimony For:** There have been a number of escapes of Atlantic salmon, including some very large escapes. Some 500,000 to 600,000 of these fish have escaped over the past several years. It is a chronic problem. Atlantic salmon have been found in Washington rivers. It is not clear why these fish haven't been seen spawning in Washington, but they have been found by officials in British Columbia spawning in their rivers. Atlantic salmon are unlike other salmon in that they can respawn, so they can reach a very large size. These fish could impact listed species. Growers don't want escapements either. Growers have been working with the National Marine Fisheries Service on a code of practice. British Columbia would like to enter into a memorandum of agreement with Washington on this issue, but the state doesn't have regulations established for the program. The Department of Fish and Wildlife only has disease control over these fish.

**Testimony Against:** None.

**Testified:** Representative Jackley, prime sponsor; Representative Buck; Kevin Amos and Andy Appleby, Washington Department of Fish and Wildlife; Pete Granger, Washington Fish Growers; and Dr. Colin Nash and Dr. Bill Walknitz, National Marine Fisheries.

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**HOUSE COMMITTEE ON APPROPRIATIONS**

**Majority Report:** The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Natural Resources. Signed by 31 members: Representatives Sehlin, Republican Co-Chair; H.

Sommers, Democratic Co-Chair; Barlean, Republican Vice Chair; Doumit, Democratic Vice Chair; Lisk, Republican Vice Chair; Alexander, Benson, Boldt, Buck, Clements, Cody, Cox, Dunshee, Fromhold, Gombosky, Grant, Kagi, Keiser, Kenney, Kessler, Lambert, Linville, Mastin, Mulliken, Pearson, Pflug, Ruderman, D. Schmidt, Schual-Berke, Talcott and Tokuda.

**Staff:** Jeff Olsen (786-7157).

**Background:**

The Administrative Procedure Act establishes administrative law procedures and provides greater public and legislative access to administrative decision making. Under the act, agencies may use negotiated rule making to work with affected parties to seek consensus on terms of proposed rules and the process by which those rules are negotiated.

**Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Natural Resources:**

The second substitute bill requires the Department of Fish and Wildlife to use a negotiated rule making process to develop the proposed rules with affected stakeholders.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Second Substitute Bill:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** There have been two major escapes of Atlantic Salmon, and British Columbia has found rivers where Atlantic salmon have spawned. The Department of Fish and Wildlife lacks rule-making authority to establish procedures to limit escapes and develop contingency plans to recapture fish. The bill would allow the Department to work with the fin fish aquatic farmers to develop proposed rules that can be reviewed during the next legislative session.

**Testimony Against:** None.

**Testified:** Representative Buck, prime sponsor; and Kevin Amos, Department of Fish and Wildlife.