
HOUSE BILL 1958

State of Washington

58th Legislature

2003 Regular Session

By Representatives Lantz, Chase, Rockefeller, Dunshee and Hunt

Read first time 02/18/2003. Referred to Committee on Fisheries,
Ecology & Parks.

1 AN ACT Relating to geoduck management; amending RCW 77.60.070 and
2 77.70.220; adding a new section to chapter 77.60 RCW; and creating new
3 sections.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that geoduck clams are
6 a valuable resource to the citizens of the state of Washington and
7 proper conservation and management provides both environmental
8 protection and economic benefits. The legislature recognizes that
9 geoduck clams are a renewable resource and a valuable international
10 commodity. The legislature further recognizes that treaty Indian
11 tribes and local communities benefit from the proper management of the
12 geoduck resource. The legislature further finds that geoduck
13 management, aquaculture, and harvesting responsibilities are shared
14 among the treaty Indian tribes and the several state agencies including
15 the department of fish and wildlife, the department of natural
16 resources, the department of agriculture, and the department of health.
17 The legislature therefore finds that improving the coordination of
18 geoduck management activities, including geoduck aquaculture, will
19 improve the geoduck resource in Washington.

1 **Sec. 2.** RCW 77.60.070 and 2000 c 107 s 25 are each amended to read
2 as follows:

3 (1) The director may not authorize a person to take geoduck clams
4 from state-owned lands for commercial purposes outside the harvest area
5 designated in a current department of natural resources geoduck
6 harvesting agreement issued under RCW 79.96.080. The director may not
7 authorize commercial harvest of geoduck clams from bottoms that are
8 shallower than eighteen feet below mean lower low water (0.0. ft.), or
9 that lie in an area bounded by the line of ordinary high tide (mean
10 high tide) and a line two hundred yards seaward from and parallel to
11 the line of ordinary high tide. This section does not apply to the
12 harvest of private sector cultured aquatic products as defined in RCW
13 15.85.020.

14 (2) Commercial geoduck harvesting shall be done with a hand-held,
15 manually operated water jet or suction device guided and controlled
16 from under water by a diver. Periodically, the director shall
17 determine the effect of each type or unit of gear upon the geoduck
18 population or the substrate they inhabit. The director may require
19 modification of the gear or stop its use if it is being operated in a
20 wasteful or destructive manner or if its operation may cause permanent
21 damage to the bottom or adjacent shellfish populations.

22 **Sec. 3.** RCW 77.70.220 and 2000 c 107 s 71 are each amended to read
23 as follows:

24 (1) A person shall not harvest geoduck clams commercially without
25 a geoduck fishery license. This section does not apply to the harvest
26 of private sector cultured aquatic products as defined in RCW
27 15.85.020.

28 (2) Only a person harvesting geoduck clams commercially on
29 nonstate-owned land or a person who has entered into a geoduck
30 harvesting agreement with the department of natural resources under RCW
31 79.96.080 may hold a geoduck fishery license.

32 (3) A geoduck fishery license for harvest on state-owned land
33 authorizes no taking of geoducks outside the boundaries of the public
34 lands designated in the underlying harvesting agreement, or beyond the
35 harvest (~~ceiling~~) limit set in the underlying harvesting agreement.

36 (4) A geoduck fishery license for harvest on state-owned land
37 expires when the underlying geoduck harvesting agreement terminates.

1 (5) The director shall determine the number of geoduck fishery
2 licenses that may be issued for each geoduck harvesting agreement, the
3 number of units of gear whose use the license authorizes, and the type
4 of gear that may be used, subject to RCW 77.60.070. In making those
5 determinations, the director shall seek to conserve the geoduck
6 resource and prevent damage to its habitat.

7 (6) The holder of a geoduck fishery license and the holder's agents
8 and representatives shall comply with all applicable commercial diving
9 safety regulations adopted by the federal occupational safety and
10 health administration established under the federal occupational safety
11 and health act of 1970 as such law exists on May 8, 1979, 84 Stat. 1590
12 et seq.; 29 U.S.C. Sec. 651 et seq. A violation of those regulations
13 is a violation of this subsection. For the purposes of this section,
14 persons who dive for geoducks are "employees" as defined by the federal
15 occupational safety and health act. A violation of this subsection is
16 grounds for suspension or revocation of a geoduck fishery license
17 following a hearing under the procedures of chapter 34.05 RCW. The
18 director shall not suspend or revoke a geoduck fishery license if the
19 violation has been corrected within ten days of the date the license
20 holder receives written notice of the violation. If there is a
21 substantial probability that a violation of the commercial diving
22 standards could result in death or serious physical harm to a person
23 engaged in harvesting geoduck clams, the director shall suspend the
24 license immediately until the violation has been corrected. If the
25 license holder is not the operator of the harvest vessel and has
26 contracted with another person for the harvesting of geoducks, the
27 director shall not suspend or revoke the license if the license holder
28 terminates its business relationship with that person until compliance
29 with this subsection is secured.

30 NEW SECTION. **Sec. 4.** A new section is added to chapter 77.60 RCW
31 to read as follows:

32 Nonstate-owned bedlands or tidelands owned or held under contract
33 or deed upon which a private party is commercially harvesting or
34 cultivating geoduck must be surveyed by the private party and a record
35 of survey filed in compliance with chapter 58.09 RCW prior to harvest.
36 Property corners will be placed in sufficient quantity and location to
37 aid in relocation of the tract lines occurring or extending below

1 extreme low tide. Buoys on anchors must be placed intervisibly along
2 and at angle points on any ownership boundaries that extend below
3 extreme low tide, for the harvest term. The survey of privately owned
4 tidelands and bedlands will be established on the Washington coordinate
5 system in compliance with chapter 58.20 RCW and property corners
6 labeled with their coordinates on the record of survey.

7 NEW SECTION. **Sec. 5.** (1) The joint legislative audit and review
8 committee shall evaluate the current status of the geoduck resource in
9 Washington and report to the legislature by December 1, 2004. The
10 report must: Include an update on the current harvest trends and
11 policies to determine the sustainability of the geoduck harvest;
12 include the role of aquaculture and reseedling in geoduck management and
13 enforcement; and make recommendations for improving the health of the
14 geoduck resource while maximizing economic benefits.

15 (2) A task force consisting of treaty Indian tribes,
16 representatives from the aquaculture industry, a representative from
17 private shoreline property owners, a representative from the department
18 of fish and wildlife, a representative from the department of natural
19 resources, a representative from the department of health, a
20 representative from the department of agriculture, and a representative
21 from counties shall provide recommendations, to be included in the
22 joint legislative audit and review committee report, regarding the role
23 of geoduck clam aquaculture and reseedling, enforcement of geoduck
24 harvest on state and nonstate-owned lands, the benefits and concerns of
25 implementing a limited entry geoduck diver license, and the benefits
26 and concerns of implementing a geoduck clams fishery.

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