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SENATE BILL 5006

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State of Washington

59th Legislature

2005 Regular Session

By Senator Jacobsen

Read first time 01/10/2005. Referred to Committee on Natural Resources, Ocean & Recreation.

1 AN ACT Relating to the sale of aquaculture products from leased  
2 state-owned aquatic lands; amending RCW 79.90.210 and 79.96.080; and  
3 adding a new section to chapter 79.96 RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 79.96 RCW  
6 to read as follows:

7 Aquaculture products produced on leased state-owned aquatic land  
8 may be sold by the leaseholder as prescribed by the department without  
9 competitive bid or public auction and consistent with statutes  
10 governing aquaculture leases on state-owned aquatic land.

11 **Sec. 2.** RCW 79.90.210 and 1990 c 163 s 1 are each amended to read  
12 as follows:

13 All sales of tidelands and shorelands belonging to the state,  
14 otherwise permitted by RCW 79.94.150 to be sold, shall be at public  
15 auction and all sales of valuable materials shall be at public auction  
16 or by sealed bid to the highest responsible bidder, on the terms  
17 prescribed by law and as specified in the notice provided, and no land  
18 or materials shall be sold for less than their appraised value:

1 PROVIDED, That when valuable material has been appraised at an amount  
2 not exceeding one hundred thousand dollars, the department of natural  
3 resources, when authorized by the board of natural resources, may  
4 arrange for the sale at public auction of said valuable material and  
5 for its removal under such terms and conditions as the department may  
6 prescribe, after the department shall have caused to be published not  
7 less than ten days prior to sale a notice of such sale in a newspaper  
8 of general circulation located nearest to the property to be sold.  
9 However, any sale of valuable material on aquatic lands of an appraised  
10 value of ten thousand dollars or less may be sold directly to the  
11 applicant for cash without notice or advertising. Sales of aquaculture  
12 products by a leaseholder shall be as specified in section 1 of this  
13 act.

14 **Sec. 3.** RCW 79.96.080 and 2003 c 39 s 43 are each amended to read  
15 as follows:

16 (1) Except as provided in section 1 of this act, geoducks shall be  
17 sold as valuable materials under the provisions of chapter 79.90 RCW.  
18 After confirmation of the sale, the department of natural resources may  
19 enter into an agreement with the purchaser for the harvesting of  
20 geoducks. The department of natural resources may place terms and  
21 conditions in the harvesting agreements as the department deems  
22 necessary. The department of natural resources may enforce the  
23 provisions of any harvesting agreement by suspending or canceling the  
24 harvesting agreement or through any other means contained in the  
25 harvesting agreement. Any geoduck harvester may terminate a harvesting  
26 agreement entered into pursuant to this subsection if actions of a  
27 governmental agency, beyond the control of the harvester, its agents,  
28 or its employees, prohibit harvesting, for a period exceeding thirty  
29 days during the term of the harvesting agreement, except as provided  
30 within the agreement. Upon such termination of the agreement by the  
31 harvester, the harvester shall be reimbursed by the department of  
32 natural resources for the cost paid to the department on the agreement,  
33 less the value of the harvest already accomplished by the harvester  
34 under the agreement.

35 (2) Harvesting agreements under this title for the purpose of  
36 harvesting geoducks shall require the harvester and the harvester's  
37 agent or representatives to comply with all applicable commercial

1 diving safety standards and regulations promulgated and implemented by  
2 the federal occupational safety and health administration established  
3 under the federal occupational safety and health act of 1970 as such  
4 law exists or as hereafter amended (84 Stat. 1590 et seq.; 29 U.S.C.  
5 Sec. 651 et seq.): PROVIDED, That for the purposes of this section and  
6 RCW 77.60.070 as now or hereafter amended, all persons who dive for  
7 geoducks are deemed to be employees as defined by the federal  
8 occupational safety and health act. All harvesting agreements shall  
9 provide that failure to comply with these standards is cause for  
10 suspension or cancellation of the harvesting agreement: PROVIDED  
11 FURTHER, That for the purposes of this subsection if the harvester  
12 contracts with another person or entity for the harvesting of geoducks,  
13 the harvesting agreement shall not be suspended or canceled if the  
14 harvester terminates its business relationship with such entity until  
15 compliance with this subsection is secured.

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