
HOUSE BILL 1761

State of Washington

63rd Legislature

2013 Regular Session

By Representative Seaquist

Read first time 02/08/13. Referred to Committee on Agriculture & Natural Resources.

1 AN ACT Relating to shellfish aquaculture; amending RCW 28B.30.632,
2 28B.30.634, and 28B.20.475; amending 2007 c 216 s 4 (uncodified);
3 adding a new section to chapter 43.21A RCW; creating a new section; and
4 repealing RCW 43.21A.681.

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

6 NEW SECTION. **Sec. 1.** (1) The legislature finds that shellfish
7 aquaculture is a dynamic and rapidly evolving industry that is
8 important to the economy, history, and identity of western Washington
9 and many of the communities surrounding the Puget Sound.

10 (2) The legislature further finds that not all of the existing
11 scientific knowledge bases and state and local regulatory structures
12 have kept up with, or are positioned to continue to keep up with, the
13 rapid changes in technology, techniques, growing patterns, and markets
14 of the shellfish aquaculture industry.

15 (3) The legislature further finds that if there is a prolonged
16 period of time where scientific knowledge and state regulatory systems
17 are unable to develop in conjunction with the industry, this will lead
18 to an imbalance in three of the factors necessary for continued
19 economic growth: A thriving shellfish aquaculture industry; a healthy

1 marine ecosystem; and a social license for the shellfish aquaculture
2 industry to operate in a manner that is harmonious with other aquatic
3 uses.

4 (4) The legislature further finds that public investment in
5 research and continued thoughtful evolution in regulatory direction can
6 help develop and maintain the needed thriving industry, healthy
7 ecosystem, and social license to operate.

8 **Sec. 2.** RCW 28B.30.632 and 2007 c 341 s 64 are each amended to
9 read as follows:

10 (1) The sea grant and cooperative extension shall jointly
11 administer a program to provide field agents to work with local
12 governments, property owners, and the general public to increase the
13 propagation of shellfish, and to address Puget Sound water quality
14 problems within Kitsap, Mason, and Jefferson counties that may limit
15 shellfish propagation potential. The sea grant and cooperative
16 extension shall each make available the services of no less than two
17 agents within these counties for the purposes of this section.

18 (2) The responsibilities of the field agents shall include but not
19 be limited to the following:

20 (a) Provide technical assistance to property owners, marine
21 industry owners and operators, and others, regarding methods and
22 practices to address nonpoint and point sources of pollution of Puget
23 Sound;

24 (b) Provide technical assistance to address water quality problems
25 limiting opportunities for enhancing the recreational harvest of
26 shellfish;

27 (c) Provide technical assistance in the management and increased
28 production of shellfish to facility operators or to those interested in
29 establishing an operation;

30 (d) Assist local governments to develop and implement education and
31 public involvement activities related to Puget Sound water quality;

32 (e) Assist in coordinating local water quality programs with
33 region-wide and statewide programs;

34 (f) Provide information and assistance to local watershed
35 committees.

36 (3) The sea grant and cooperative extension shall mutually
37 coordinate their field agent activities to avoid duplicative efforts

1 and to ensure that the full range of responsibilities under RCW
2 28B.30.632 through 28B.30.636 are carried out. They shall consult with
3 the Puget Sound partnership, created in RCW 90.71.210, and ensure
4 consistency with any of the Puget Sound partnership's water quality
5 management plans.

6 (4) Recognizing the special expertise of both agencies, the sea
7 grant and cooperative extension shall cooperate to divide their
8 activities as follows:

9 (a) Sea grant shall have primary responsibility to address water
10 quality issues related to activities within Puget Sound, and to provide
11 assistance regarding the management and improvement of shellfish
12 production; and

13 (b) Cooperative extension shall have primary responsibility to
14 address upland and freshwater activities affecting Puget Sound water
15 quality and associated watersheds.

16 (5)(a) In addition to the other responsibilities of this section,
17 the cooperative extension must establish a shellfish aquaculture public
18 information center in one of the following counties: Mason, Thurston,
19 Kitsap, Pierce, or Jefferson. Regardless of location, the shellfish
20 aquaculture public information center must provide services within all
21 five counties.

22 (b) The shellfish aquaculture public information center may provide
23 the following services:

24 (i) Develop a repository of information on sustainable aquaculture
25 practices;

26 (ii) Work with private growers to provide technical assistance
27 regarding sustainable aquaculture practices and permit and regulation
28 compliance;

29 (iii) Develop educational materials, kiosks, interpretative
30 centers, and other forums regarding the history, importance, and
31 sustainability of the shellfish industry;

32 (iv) Serve as a single point of contact for the public and as a
33 public ombuds regarding questions about shellfish aquaculture
34 permitting, enforcement, and concerns;

35 (v) Liaison with state and county governments to assist in
36 resolving or explaining public questions and concerns;

37 (vi) Seek federal funding for aquaculture research and development;

1 (vii) Serve as an information clearinghouse for aquaculture
2 activities and regulations;

3 (viii) Serve as a point of contact and a public clearinghouse
4 regarding abandoned aquaculture sites littered with derelict gear,
5 including investigations into any known owners with site restoration
6 responsibilities and other clean-up options when responsible owners are
7 unknown or nonexistent; and

8 (ix) Fulfill other duties deemed relevant to the assistance of a
9 vibrant, sustainable, shellfish aquaculture industry.

10 **Sec. 3.** RCW 28B.30.634 and 1990 c 289 s 3 are each amended to read
11 as follows:

12 Except for the shellfish aquaculture public information center
13 required under RCW 28B.30.632, the sea grant and cooperative extension
14 shall require a match from nonstate sources of at least twenty-five
15 percent of the cost of the services provided, and not exceeding fifty
16 percent of the cost. The match may be either monetary compensation or
17 in-kind services, such as the provision for office space or clerical
18 support. Only direct costs of providing the services, excluding costs
19 of administrative overhead, may be included in the estimate of costs.

20 **Sec. 4.** RCW 28B.20.475 and 2007 c 216 s 1 are each amended to read
21 as follows:

22 (1) The sea grant program at the University of Washington shall,
23 consistent with this section, commission ((a)) an ongoing series of
24 scientific research studies that examines the possible effects,
25 including the cumulative effects, of the current prevalent geoduck
26 aquaculture techniques and practices on the natural environment in and
27 around Puget Sound, including the Strait of Juan de Fuca. The sea
28 grant program shall use funding provided from the geoduck aquaculture
29 research account created in RCW 28B.20.476 to review existing
30 literature, directly perform research identified as needed, or to enter
31 into and manage contracts with scientific organizations or institutions
32 to accomplish these results.

33 (2) Prior to entering into a contract with a scientific
34 organization or institution, the sea grant program must:

35 (a) Analyze, through peer review, the credibility of the proposed

1 party to the contract, including whether the party has credible
2 experience and knowledge and has access to the facilities necessary to
3 fully execute the research required by the contract; and

4 (b) Require that all proposed parties to a contract fully disclose
5 any past, present, or planned future personal or professional
6 connections with the shellfish industry or public interest groups.

7 (3) To the degree appropriate, research conducted under this
8 section should be coordinated with any research efforts by the sea
9 grant program related to ocean acidification.

10 (4) All research commissioned under this section must be subjected
11 to a rigorous peer review process prior to being accepted and reported
12 by the sea grant program.

13 ((+4)) (5) In prioritizing and directing research under this
14 section, the sea grant program shall meet with the department of
15 ecology at least annually and ((rely on)) consider guidance submitted
16 by the department of ecology. The department of ecology shall convene
17 the shellfish aquaculture ((regulatory)) committee created in section
18 ((4, chapter 216, Laws of 2007)) 5 of this act as necessary to serve as
19 ((an oversight)) a steering committee to formulate the guidance
20 provided to the sea grant program. The objective of the ((oversight))
21 steering committee, and the resulting guidance provided to the sea
22 grant program, is to ensure that the research required under this
23 section ((satisfies)) assists the planning, permitting, and data
24 management needs of the state, to assist in the prioritization of
25 research ((given limited funding)), and to help identify any research
26 that is beneficial to complete other than what is listed in subsection
27 ((+5)) (6) of this section.

28 ((+5)) (6) To satisfy the minimum requirements of subsection (1)
29 of this section, the sea grant program shall review all scientific
30 research that is existing or in progress that examines the possible
31 effect of currently prevalent geoduck practices((7)) on the natural
32 environment((7)) and prioritize and conduct new studies as needed, to
33 measure and assess the following:

34 (a) The environmental effects of structures commonly used in the
35 aquaculture industry to protect juvenile geoducks from predation;

36 (b) The environmental effects of commercial harvesting of geoducks
37 from intertidal geoduck beds, focusing on current prevalent harvesting

1 techniques, including a review of the recovery rates for benthic
2 communities after harvest;

3 (c) The extent to which geoducks in standard aquaculture tracts
4 alter the ecological characteristics of overlying waters while the
5 tracts are submerged, including impacts on species diversity, and the
6 abundance of other benthic organisms;

7 (d) Baseline information regarding naturally existing parasites and
8 diseases in wild and cultured geoducks, including whether and to what
9 extent commercial intertidal geoduck aquaculture practices impact the
10 baseline;

11 (e) Genetic interactions between cultured and wild geoduck,
12 including measurements of differences between cultured geoducks and
13 wild geoducks in terms of genetics and reproductive status; and

14 (f) The impact of the use of sterile triploid geoducks and whether
15 triploid animals diminish the genetic interactions between wild and
16 cultured geoducks.

17 ((+6)) (7) If adequate funding is not made available for the
18 completion of all research required under this section, the sea grant
19 program shall consult with the shellfish aquaculture ((regulatory))
20 committee, via the department of ecology, to prioritize which of the
21 enumerated research projects have the greatest cost/benefit ratio in
22 terms of providing information important for regulatory decisions;
23 however, the study identified in subsection ((+5)) (6)(b) of this
24 section shall receive top priority. The prioritization process may
25 include the addition of any new studies that may be appropriate in
26 addition to, or in place of, studies listed in this section.

27 ((+7)) (8) When appropriate, all research commissioned under this
28 section must address localized and cumulative effects of geoduck
29 aquaculture.

30 ((+8)) (9) The sea grant program and the University of Washington
31 are prohibited from retaining greater than fifteen percent of any
32 funding provided to implement this section for administrative overhead
33 or other deductions not directly associated with conducting the
34 research required by this section.

35 ((+9)) (10) Individual commissioned contracts under this section
36 may address single or multiple components listed for study under this
37 section.

1 ~~((10))~~ (11) All initial research commissioned under this section
2 must be completed and the results reported to the ~~((appropriate~~
3 ~~committees of the))~~ legislature consistent with RCW 43.01.036 by
4 December 1, 2013. ~~((In addition, the sea grant program shall provide~~
5 ~~the appropriate committees of the legislature with annual reports~~
6 ~~updating the status and progress of the ongoing studies that are~~
7 ~~completed in advance of the 2013 deadline.))~~ Research completed after
8 the initial report must be summarized for legislators upon request.

9 **Sec. 5.** 2007 c 216 s 4 (uncodified) is amended to read as follows:

10 (1) The shellfish aquaculture ~~((regulatory))~~ committee is
11 established to, consistent with this section, serve as an advisory body
12 to the department ~~((of ecology))~~ on regulatory processes and approvals
13 for all current and new shellfish aquaculture activities, and the
14 activities conducted pursuant to RCW 90.58.060, as the activities
15 relate to shellfish. The shellfish aquaculture ~~((regulatory))~~
16 committee is advisory in nature, and no vote or action of the committee
17 may overrule existing statutes, regulations, or local ordinances nor
18 bind the decision-making process required of the University of
19 Washington's sea grant program under RCW 28B.20.475.

20 (2) The shellfish aquaculture ~~((regulatory))~~ committee shall
21 initially develop recommendations as to:

22 (a) A regulatory system or permit process for all current and new
23 shellfish aquaculture projects and activities that integrates all
24 applicable existing local, state, and federal regulations and is
25 efficient both for the regulators and the regulated; and

26 (b) Appropriate guidelines for geoduck aquaculture operations to be
27 included in shoreline master programs ~~((under section 5 of this act))~~.
28 When developing the initial recommendations for guidelines under this
29 subsection, the committee must examine the following:

30 (i) Methods for quantifying and reducing marine litter; and

31 (ii) Possible landowner notification policies and requirements for
32 establishing new geoduck aquaculture farms.

33 (3) After the completion of the initial charge of work for the
34 shellfish aquaculture committee, the committee must be reconstituted,
35 maintained, and asked to meet as necessary only to advise the sea grant
36 program at the University of Washington regarding the scoping of
37 research under RCW 28B.20.475.

1 ~~(4)~~(a) The members of the shellfish aquaculture (~~(regulatory)~~)
2 committee shall be appointed by the director of the department (~~(of~~
3 ~~ecology)~~) as follows:

4 (i) Two representatives of county government, one from a county
5 located on the Puget Sound, and one from a county located on the
6 Pacific Ocean;

7 (ii) Two individuals who are professionally engaged in the
8 commercial aquaculture of shellfish, one who owns or operates an
9 aquatic farm in Puget Sound, and one who owns or operates an aquatic
10 farm in state waters other than the Puget Sound;

11 (iii) Two representatives of organizations representing the
12 environmental community;

13 (iv) Two individuals who own shoreline property, one of which does
14 not have a commercial geoduck operation on his or her property and one
15 of which who does have a commercial geoduck operation on his or her
16 property; and

17 (v) One representative each from the following state agencies: The
18 department of ecology, the department of fish and wildlife, the
19 department of agriculture, and the department of natural resources.

20 (b) In addition to the other participants listed in this
21 subsection, the governor shall invite the full participation of two
22 tribal governments, at least one of which is located within the
23 drainage of the Puget Sound.

24 ~~((+4))~~ (5) The department (~~(of—ecology)~~) shall provide
25 administrative and clerical assistance to the shellfish aquaculture
26 (~~(regulatory)~~) committee and all agencies listed in subsection ~~((+3))~~
27 (4) of this section shall provide technical assistance.

28 ~~((+5))~~ (6) Nonagency members of the shellfish aquaculture
29 (~~(regulatory)~~) committee will not be compensated, but are entitled to
30 be reimbursed for travel expenses in accordance with RCW 43.03.050 and
31 43.03.060.

32 ~~((+6))~~ (7) Any participation by a Native American tribe on the
33 shellfish aquaculture (~~(regulatory)~~) committee shall not, under any
34 circumstances, be viewed as an admission by the tribe that any of its
35 activities, or those of its members, are subject to any of the
36 statutes, regulations, ordinances, standards, or permit systems
37 reviewed, considered, or proposed by the committee.

1 ~~((7))~~ (8) The shellfish aquaculture ~~((regulatory))~~ committee is
2 authorized to form technical advisory panels as needed and appoint to
3 them members not on the shellfish aquaculture ~~((regulatory))~~ committee.

4 ~~((8) The department of ecology shall report the recommendations
5 and findings of the shellfish aquaculture regulatory committee to the
6 appropriate committees of the legislature by December 1, 2007, with a
7 further report, if necessary, by December 1, 2008.)~~)

8 NEW SECTION. **Sec. 6.** Section 5 of this act is codified as a new
9 section in chapter 43.21A RCW.

10 NEW SECTION. **Sec. 7.** RCW 43.21A.681 (Geoduck aquaculture
11 operations--Guidelines--Rules) and 2007 c 216 s 5 are each repealed.

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