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**SUBSTITUTE HOUSE BILL 1894**

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**State of Washington**

**63rd Legislature**

**2013 Regular Session**

**By** House Agriculture & Natural Resources (originally sponsored by Representatives Sequist, Blake, Haigh, Takko, Lytton, Tharinger, and MacEwen)

READ FIRST TIME 02/22/13.

1           AN ACT Relating to shellfish aquaculture research; amending RCW  
2 28B.30.632, 28B.30.634, 28B.20.475, and 28B.20.476; amending 2007 c 216  
3 s 4 (uncodified); adding a new section to chapter 43.21A RCW; creating  
4 a new section; and 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 its rural coastal communities.

10           (2) The legislature further finds that research conducted at its  
11 direction under the oversight of Washington sea grant since 2007 has  
12 considerably improved the existing scientific knowledge of the  
13 environmental effects of shellfish culture and with that knowledge, and  
14 at the direction of the legislature, state and local regulatory  
15 structures have been or are in the process of being updated to  
16 adequately regulate culture activities.

17           (3) The legislature further finds that in addition to state and  
18 local regulation, the United States army corps of engineers, the  
19 national marine fisheries service, and the United States fish and

1 wildlife service provide federal oversight and regulation of shellfish  
2 aquaculture and that these federal permits are periodically reviewed  
3 and updated based on evolving scientific knowledge.

4 (4) The legislature further finds that shellfish aquaculture is a  
5 dynamic industry, with culture methods continually evolving in response  
6 to changing markets and technology, and as such, continued investment  
7 in research can help develop and maintain a thriving industry and a  
8 healthy ecosystem.

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

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

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

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

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

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

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

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

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

1 (3) The sea grant and cooperative extension shall mutually  
2 coordinate their field agent activities to avoid duplicative efforts  
3 and to ensure that the full range of responsibilities under RCW  
4 28B.30.632 through 28B.30.636 are carried out. They shall consult with  
5 the Puget Sound partnership, created in RCW 90.71.210, and ensure  
6 consistency with any of the Puget Sound partnership's water quality  
7 management plans.

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

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

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

18 (5) In addition to the other responsibilities of this section, the  
19 sea grant program must, consistent with RCW 28B.30.634, establish a  
20 shellfish aquaculture public information center to provide the  
21 following services:

22 (a) Develop a repository of information on sustainable aquaculture  
23 practices;

24 (b) Work with private growers to provide technical assistance  
25 regarding sustainable aquaculture practices and permit and regulation  
26 compliance;

27 (c) Develop educational materials, kiosks, interpretative centers,  
28 and other forums regarding the history, importance, and sustainability  
29 of the shellfish industry;

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

33 (e) Liaison with state and county governments to assist in  
34 resolving or explaining public questions and concerns;

35 (f) Seek federal funding for aquaculture research and development;

36 (g) Serve as an information clearinghouse for aquaculture  
37 activities and regulations;

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

6 (i) Fulfill other duties deemed relevant to the assistance of a  
7 vibrant, sustainable, shellfish aquaculture industry.

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

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

18 (2) The sea grant is not required to establish or maintain a  
19 shellfish aquaculture public information center, as provided in RCW  
20 28B.30.632, if funding is not available from the federal government,  
21 the state government, gifts or donations, or from some other source.

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

24 (1) The sea grant program at the University of Washington shall,  
25 consistent with this section and RCW 28B.20.476, commission ((a series  
26 of)) scientific research studies that examine((s)) the possible  
27 negative and positive effects, including the cumulative effects((, of  
28 the current prevalent geoduck aquaculture techniques and practices on  
29 the natural environment in and around Puget Sound, including the Strait  
30 of Juan de Fuca)) and the economic contribution of evolving shellfish

31 aquaculture techniques and practices on Washington's economy and marine  
32 ecosystems. The sea grant program shall use funding provided from the  
33 ((geoduck)) shellfish aquaculture research account created in RCW  
34 28B.20.476 to review existing literature, ((directly perform))  
35 competitively select research studies identified as needed, ((or to))

1 and enter into and manage contracts with scientific organizations or  
2 institutions to ~~((accomplish these results))~~ conduct these studies.

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

5 (a) Analyze ~~((, through peer review,))~~ the credibility of the  
6 proposed party to the contract, including whether the party has  
7 credible experience and knowledge and has access to the facilities  
8 necessary to fully execute the research required by the contract; and

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

12 (3) To the degree appropriate, research conducted under this  
13 section should be coordinated with any research efforts by the sea  
14 grant and other university programs related to ocean acidification.

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

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

34 ~~((+5))~~ (6) To satisfy the minimum requirements of subsection (1)  
35 of this section, the sea grant program shall review all scientific  
36 research that is existing or in progress that examines the possible  
37 effect of currently prevalent geoduck practices ~~((7))~~ on the natural

1 environment((7)) and prioritize and conduct new studies as needed, to  
2 measure and assess the following:

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

5 (b) The environmental effects of commercial harvesting of geoducks  
6 from intertidal geoduck beds, focusing on current prevalent harvesting  
7 techniques, including a review of the recovery rates for benthic  
8 communities after harvest;

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

13 (d) Baseline information regarding naturally existing parasites and  
14 diseases in wild and cultured geoducks, including whether and to what  
15 extent commercial intertidal geoduck aquaculture practices impact the  
16 baseline;

17 (e) Genetic interactions between cultured and wild geoduck,  
18 including measurements of differences between cultured geoducks and  
19 wild geoducks in terms of genetics and reproductive status; and

20 (f) The impact of the use of sterile triploid geoducks and whether  
21 triploid animals diminish the genetic interactions between wild and  
22 cultured geoducks.

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

33 ((+7+)) (8) When appropriate, all research commissioned under this  
34 section must address localized and cumulative effects of geoduck  
35 aquaculture.

36 ((+8+)) (9) The sea grant program and the University of Washington  
37 are prohibited from retaining greater than fifteen percent of any

1 funding provided to implement this section for administrative overhead  
2 or other deductions not directly associated with conducting the  
3 research required by this section.

4 ~~((+9))~~ (10) Individual commissioned contracts under this section  
5 may address single or multiple components listed for study under this  
6 section.

7 ~~((+10) All)~~ (11) The research commissioned under this section must  
8 be ~~((completed and the results))~~ reported to the ~~((appropriate~~  
9 ~~committees of the))~~ legislature ~~((by December 1, 2013. In addition,~~  
10 ~~the sea grant program shall provide the appropriate committees of the~~  
11 ~~legislature with annual reports updating the status and progress of the~~  
12 ~~ongoing studies that are completed in advance of the 2013 deadline))~~  
13 consistent with RCW 43.01.036 periodically upon request.

14 **Sec. 5.** RCW 28B.20.476 and 2007 c 216 s 2 are each amended to read  
15 as follows:

16 (1) The ~~((geoduck))~~ shellfish aquaculture research account is  
17 created in the custody of the state treasurer. All receipts from any  
18 legislative appropriations, the aquaculture industry, or any other  
19 private or public source directed to the account must be deposited in  
20 the account. Expenditures from the account may only be used by the sea  
21 grant program for the ~~((geoduck))~~ shellfish aquaculture research  
22 projects identified by RCW 28B.20.475. Only the president of the  
23 University of Washington or the president's designee may authorize  
24 expenditures from the account. The account is subject to the allotment  
25 procedures under chapter 43.88 RCW, but an appropriation is not  
26 required for expenditures.

27 (2) The sea grant program is not required to commission scientific  
28 research studies under RCW 28B.20.475 if funding is not available in  
29 the shellfish aquaculture research account established in this section  
30 or from another source.

31 **Sec. 6.** 2007 c 216 s 4 (uncodified) is amended to read as follows:

32 (1) The shellfish aquaculture ~~((regulatory))~~ committee is  
33 established to, consistent with this section, serve as an advisory body  
34 to the department ~~((of ecology on regulatory processes and approvals~~  
35 ~~for all current and new shellfish aquaculture activities, and the~~  
36 ~~activities conducted pursuant to RCW 90.58.060, as the activities~~

1 ~~relate to shellfish))~~ with regard to the research conducted pursuant to  
2 RCW 28B.20.475. The shellfish aquaculture (~~regulatory~~) committee is  
3 advisory in nature, and no vote or action of the committee may overrule  
4 existing statutes, regulations, or local ordinances nor bind the  
5 decision-making process required of the University of Washington's sea  
6 grant program under RCW 28B.20.475.

7 ~~(2) ((The shellfish aquaculture regulatory committee shall develop~~  
8 ~~recommendations as to:~~

9 ~~(a) A regulatory system or permit process for all current and new~~  
10 ~~shellfish aquaculture projects and activities that integrates all~~  
11 ~~applicable existing local, state, and federal regulations and is~~  
12 ~~efficient both for the regulators and the regulated; and~~

13 ~~(b) Appropriate guidelines for geoduck aquaculture operations to be~~  
14 ~~included in shoreline master programs under section 5 of this act.~~  
15 ~~When developing the recommendations for guidelines under this~~  
16 ~~subsection, the committee must examine the following:~~

- 17 ~~(i) Methods for quantifying and reducing marine litter; and~~
- 18 ~~(ii) Possible landowner notification policies and requirements for~~  
19 ~~establishing new geoduck aquaculture farms.~~

20 ~~(3))~~(a) The members of the shellfish aquaculture (~~regulatory~~)  
21 committee shall be appointed by the director of the department (~~of~~  
22 ~~ecology~~) as follows:

23 (i) Two representatives of county government, one from a county  
24 located on the Puget Sound, and one from a county located on the  
25 Pacific Ocean;

26 (ii) Two individuals who are professionally engaged in the  
27 commercial aquaculture of shellfish, one who owns or operates an  
28 aquatic farm in Puget Sound, and one who owns or operates an aquatic  
29 farm in state waters other than the Puget Sound;

30 (iii) Two representatives of organizations representing the  
31 environmental community;

32 (iv) Two individuals who own shoreline property, one of which does  
33 not have a commercial (~~geoduck~~) shellfish operation on his or her  
34 property and one of which who does have a commercial (~~geoduck~~)  
35 shellfish operation on his or her property; and

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



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

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

9 ~~((+5))~~ (4) Nonagency members of the shellfish aquaculture  
10 ~~((regulatory))~~ committee will not be compensated, but are entitled to  
11 be reimbursed for travel expenses in accordance with RCW 43.03.050 and  
12 43.03.060.

13 ~~((+6))~~ (5) Any participation by a Native American tribe on the  
14 shellfish aquaculture ~~((regulatory))~~ committee shall not, under any  
15 circumstances, be viewed as an admission by the tribe that any of its  
16 activities, or those of its members, are subject to any of the  
17 statutes, regulations, ordinances, standards, or permit systems  
18 reviewed, considered, or proposed by the committee.

19 ~~((+7))~~ (6) The shellfish aquaculture ~~((regulatory))~~ committee is  
20 authorized to form technical advisory panels as needed and appoint to  
21 them members not on the shellfish aquaculture ~~((regulatory))~~ committee.

22 ~~((+8) The department of ecology shall report the recommendations  
23 and findings of the shellfish aquaculture regulatory committee to the  
24 appropriate committees of the legislature by December 1, 2007, with a  
25 further report, if necessary, by December 1, 2008.))~~

26 NEW SECTION. **Sec. 7.** Section 6 of this act is codified as a new  
27 section in chapter 43.21A RCW.

28 NEW SECTION. **Sec. 8.** RCW 43.21A.681 (Geoduck aquaculture  
29 operations--Guidelines--Rules) and 2007 c 216 s 5 are each repealed.

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