
**Agriculture & Natural Resources
Committee**

HB 2418

Brief Description: Reducing impacts of nonnative finfish aquaculture by delaying construction of new nonnative finfish aquaculture facilities until thorough study, including structural analysis of existing facilities, is complete.

Sponsors: Representatives Lytton, Chapman, Sawyer, Blake, Tarleton, Cody, Tharinger, Robinson, Peterson, Fitzgibbon, Morris, Dolan, Frame, Orwall, Kilduff, Stanford, Macri, Jinkins, Ryu, Ormsby, Doglio, Pollet, Ortiz-Self and Gregerson.

Brief Summary of Bill

- Directs the departments of Fish and Wildlife (WDFW), Ecology (Ecology), and Natural Resources (DNR) to review permitting and lease requirements that apply to nonnative finfish aquaculture
- Requires the WDFW, Ecology, and DNR to certify whether or not permitting and lease requirements prevent negative impacts to the health and safety of native finfish and tribal treaty fishing rights.
- Directs the University of Washington School of Aquatic and Fishery Sciences, in cooperation with other academic institutions and the Northwest Indian Fisheries Commission, to study potential impacts of nonnative finfish aquaculture.
- Directs the WDFW to require regular inspections of net pen facilities used for raising Atlantic salmon or other nonnative finfish, and specifies that certain permits may not be issued or renewed until rules are adopted and initial structural inspections are complete.
- Prohibits construction of new net pen facilities and issuance of aquatic land leases for Atlantic salmon or nonnative finfish aquaculture until the later of July 1, 2020, or until certain conditions are met.

Hearing Date: 1/18/18

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Staff: Rebecca Lewis (786-7339).

Background:

Marine Finfish Aquaculture.

Aquaculture is the process of growing, farming, or cultivating aquatic products in marine or freshwater environments. Aquatic products include plants, shellfish, and finfish. One species of finfish raised in Washington's marine waters is Atlantic salmon. Atlantic salmon are initially hatched and reared in a freshwater environment until they are ready for the marine environment, at which point they are transferred to net pens in marine waters, where they are held until reaching market size. This technique is also used in British Columbia, certain states along the east coast of the United States, and the United Kingdom.

In Washington, Atlantic salmon are raised in floating commercial net pen facilities located at eight different locations in Puget Sound and the Strait of Juan de Fuca. All eight farms are sited on aquatic lands owned by the State of Washington, managed by the Department of Natural Resources (DNR), and leased by a commercial finfish farm operator.

Aquatic Land Lease Requirements.

State-owned aquatic lands include approximately 2,000 square miles of beaches, tidelands, and bedlands throughout the marine waters in Puget Sound and along the Strait of Juan de Fuca and the Pacific Ocean coast, as well as most of the navigable rivers, streams and lakes. The DNR manages the state's aquatic lands and issues leases for a variety of activities and projects that take place on such lands. Potential lessees must obtain all permits necessary to conduct a proposed activity or project before the DNR may authorize the activity or project on leased land.

Marine Finfish Aquaculture Permitting.

In addition to local permits and federal permits through the U.S. Army Corps of Engineers, U.S. Coast Guard, and Food and Drug Administration, there are four main state permits or approvals necessary to conduct net pen aquaculture in Washington's marine waters:

- a National Pollutant Discharge Elimination System (NPDES) permit through the Department of Ecology (Ecology);
- an Aquatic Farm Registration through the Department of Fish and Wildlife (WDFW);
- a Marine Finfish Aquaculture Permit through the WDFW; and
- Fish Transport Permits through the WDFW.

National Pollutant Discharge Elimination System.

The federal Clean Water Act establishes the National Pollutant Discharge Elimination System (NPDES), which regulates discharges of pollutants to surface waters. In Washington, NPDES permitting authority is delegated to the state, allowing the Department of Ecology (Ecology) to issue NPDES permits. The NPDES permits are issued for terms of no more than five years at a time. Wastewater discharge permits place limits on the quantity and type of contaminants that may be discharged. There are several plans and reports addressing accidental fish release and pollution and disease control required as a part of the NPDES permit. These include an accidental fish release response plan and a fish release prevention and monitoring plan, both

coordinated with WDFW. Marine finfish farms that harvest more than 20,000 pounds of fish per year, or that feed more than 5,000 pounds of fish food per month, must obtain an NPDES permit from Ecology.

Aquatic Farm Registration.

The DFW is required to register each aquatic farm, and to maintain a database of aquatic farm registrations. Each aquatic farmer must renew their registration annually and provide a quarterly report on the farm's monthly production including species cultured, quantity harvested for sale, and unit value. Reporting of aquaculture activity during the previous calendar year constitutes renewal for the following year.

Marine Finfish Aquaculture Permit.

An aquatic farmer must obtain a Marine Finfish Aquaculture Permit, valid for 5 years, from the WDFW in order to raise any species of marine finfish in net pens in Washington's marine waters. The aquatic farmer must include an operations plan, escape prevention plan, and an escape reporting and recapture plan with the Marine Finfish Aquaculture Permit application.

Live Fish Transport Permit.

In order to transport live fish or eggs into or within the state, a person must obtain a Live Fish Transport Permit from the WDFW to ensure that:

- fish or eggs brought into the state are free from reportable fish pathogens;
- aquatic invasive species are not shipped with the fish to be transported; and
- undesirable species do not cause harm to native species.

A Live Fish Transport Permit is required each time fish or eggs are to be transported into or within the state.

Summary of Bill:

Regulatory and Lease Requirement Study.

The WDFW, Ecology, and DNR must study each permit and lease requirement that applies to Atlantic salmon and other nonnative finfish aquaculture. The WDFW, Ecology, and DNR must report to the Legislature by October 31, 2018, and must certify whether or not the current state requirements are sufficient to prevent negative impacts to the health and safety of Washington waters and marine ecosystems, Pacific salmon health and habitat, and tribal treaty fishing rights.

Nonnative Finfish Impacts Study.

The University of Washington School of Aquatic and Fishery Sciences (UW) in cooperation with Western Washington University and Washington State University must conduct a study of nonnative finfish aquaculture in Washington. The UW must also invite participation from the Norwest Indian College and Northwest Indian Fisheries Commission. The report is due December 1, 2018, and must cover the following elements:

- an overview of nonnative finfish aquaculture in Washington, and in other states, countries, or provinces, including previous escapes, resulting impacts to native species, and associated regulatory responses;

- an analysis of potential impacts to native species including competition for resources and possible genetic consequences; and
- recommendations on how to balance consequences and benefits of nonnative finfish aquaculture in Washington.

Structural Inspections.

The DFW must require, by rule, regular structural inspections of any net pens used for raising Atlantic salmon or other nonnative finfish by a marine engineering firm with expertise in marine finfish aquatic farm facilities. The finfish farm operator must be required to commission and pay for the inspection. Rules must be adopted no later than December 31, 2018. The DFW and Ecology may not issue any new permits, except for DFW-issued Fish Transport Permits, or renew existing permits, until rules are adopted and structural analyses are complete.

Prohibition on New Net Pen Construction.

Construction of new net pen facilities is prohibited until July 1, 2020. After July 2020, new construction may take place only if:

- the agency review, nonnative finfish impacts study, and structural inspections are all completed; and
- the departments of Fish and Wildlife, Ecology, and Natural Resources certify that permitting and lease requirements are sufficient to prevent negative impacts to the health and safety of Washington waters and marine ecosystems, Pacific salmon health and habitat, and tribal treaty fishing rights.

Repairs or improvements necessary to remain in compliance with permitting and lease requirements are not subject to the prohibition.

Appropriation: None.

Fiscal Note: Requested on January 11, 2018.

Effective Date: The bill contains an emergency clause and takes effect immediately.