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HOUSE BILL 2956

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State of Washington

65th Legislature

2018 Regular Session

By Representative Blake

Read first time 01/30/18. Referred to Committee on Agriculture & Natural Resources.

1 AN ACT Relating to protecting Washington waters from negative  
2 impacts of nonnative finfish by requiring nonnative finfish  
3 cultivated in Washington to be single-sex; amending RCW 77.12.047,  
4 77.125.030, and 90.48.220; adding a new section to chapter 79.105  
5 RCW; adding a new section to chapter 77.125 RCW; and adding a new  
6 section to chapter 90.48 RCW.

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

8 NEW SECTION. **Sec. 1.** A new section is added to chapter 79.105  
9 RCW under the subchapter heading "general use, sale, and lease  
10 provisions" to read as follows:

11 (1) The department may enter into a new aquatic land lease for  
12 the purpose of Atlantic salmon or nonnative finfish aquaculture only  
13 if such a lease is for the culture of exclusively single-sex Atlantic  
14 salmon or other single-sex nonnative marine finfish.

15 (2) The department may renew or extend a lease in existence on  
16 the effective date of this section for the culture of Atlantic salmon  
17 or other nonnative finfish only if such an extension or renewal is  
18 for the culture of exclusively single-sex Atlantic salmon or other  
19 single-sex nonnative marine finfish.

1        NEW SECTION.    **Sec. 2.**    A new section is added to chapter 77.125  
2    RCW to read as follows:

3        (1) The department may permit Atlantic salmon or other nonnative  
4    marine finfish aquaculture after the expiration date of the relevant  
5    state-owned aquatic lands lease in effect on the effective date of  
6    this section only if the permits are for activities or operations  
7    related to marine aquaculture of single-sex Atlantic salmon or other  
8    single-sex nonnative finfish.

9        (2) The department may permit the transport of Atlantic salmon or  
10   other nonnative finfish after the expiration date of the relevant  
11   state-owned aquatic lands lease in effect on the effective date of  
12   this section only for the transport of single-sex Atlantic salmon or  
13   other nonnative finfish.

14       NEW SECTION.    **Sec. 3.**    A new section is added to chapter 90.48  
15   RCW to read as follows:

16        The department may not permit any activities or operations for  
17   the marine aquaculture of Atlantic salmon or other nonnative finfish  
18   after the expiration date of the relevant state-owned aquatic lands  
19   lease in effect on the effective date of this section, unless the  
20   permits are for activities or operations for the marine aquaculture  
21   of single-sex Atlantic salmon or other single-sex nonnative finfish.

22        **Sec. 4.**    RCW 77.12.047 and 2017 c 159 s 2 are each amended to  
23   read as follows:

24        (1) The commission may adopt, amend, or repeal rules as follows:

25        (a) Specifying the times when the taking of wildlife, fish, or  
26   shellfish is lawful or unlawful.

27        (b) Specifying the areas and waters in which the taking and  
28   possession of wildlife, fish, or shellfish is lawful or unlawful.

29        (c) Specifying and defining the gear, appliances, or other  
30   equipment and methods that may be used to take wildlife, fish, or  
31   shellfish, and specifying the times, places, and manner in which the  
32   equipment may be used or possessed.

33        (d) Regulating the importation, transportation, possession,  
34   disposal, landing, and sale of wildlife, fish, shellfish, or seaweed  
35   within the state, whether acquired within or without the state. This  
36   authority must be exercised consistent with section 2 of this act.  
37   However, the rules of the department must prohibit any person,

1 including department staff, from translocating a live elk from an  
2 area with elk affected by hoof disease to any other location except:

3 (i) Consistent with a process developed by the department with  
4 input from the affected federally recognized tribes for translocation  
5 for monitoring or hoof disease management purposes; or

6 (ii) Within an elk herd management plan area affected by hoof  
7 disease.

8 (e) Regulating the prevention and suppression of diseases and  
9 pests affecting wildlife, fish, or shellfish.

10 (f) Regulating the size, sex, species, and quantities of  
11 wildlife, fish, or shellfish that may be taken, possessed, sold, or  
12 disposed of.

13 (g) Specifying the statistical and biological reports required  
14 from fishers, dealers, boathouses, or processors of wildlife, fish,  
15 or shellfish.

16 (h) Classifying species of marine and freshwater life as food  
17 fish or shellfish.

18 (i) Classifying the species of wildlife, fish, and shellfish that  
19 may be used for purposes other than human consumption.

20 (j) Regulating the taking, sale, possession, and distribution of  
21 wildlife, fish, shellfish, or deleterious exotic wildlife.

22 (k) Establishing game reserves and closed areas where hunting for  
23 wild animals or wild birds may be prohibited.

24 (l) Regulating the harvesting of fish, shellfish, and wildlife in  
25 the federal exclusive economic zone by vessels or individuals  
26 registered or licensed under the laws of this state.

27 (m) Authorizing issuance of permits to release, plant, or place  
28 fish or shellfish in state waters.

29 (n) Governing the possession of fish, shellfish, or wildlife so  
30 that the size, species, or sex can be determined visually in the  
31 field or while being transported.

32 (o) Other rules necessary to carry out this title and the  
33 purposes and duties of the department.

34 (2)(a) Subsections (1)(a), (b), (c), (d), and (f) of this section  
35 do not apply to private tideland owners and lessees and the immediate  
36 family members of the owners or lessees of state tidelands, when they  
37 take or possess oysters, clams, cockles, borers, or mussels,  
38 excluding razor clams, produced on their own private tidelands or  
39 their leased state tidelands for personal use.

1 (b) "Immediate family member" for the purposes of this section  
2 means a spouse, brother, sister, grandparent, parent, child, or  
3 grandchild.

4 (3) Except for subsection (1)(g) of this section, this section  
5 does not apply to private sector cultured aquatic products as defined  
6 in RCW 15.85.020. Subsection (1)(g) of this section does apply to  
7 such products.

8 **Sec. 5.** RCW 77.125.030 and 2001 c 86 s 3 are each amended to  
9 read as follows:

10 (1) The director, in cooperation with the marine finfish aquatic  
11 farmers, shall develop proposed rules for the implementation,  
12 administration, and enforcement of marine finfish aquaculture  
13 programs. In developing such proposed rules, the director must use a  
14 negotiated rule-making process pursuant to RCW 34.05.310. The  
15 proposed rules shall be submitted to the appropriate legislative  
16 committees by January 1, 2002, to allow for legislative review of the  
17 proposed rules. The proposed rules shall include the following  
18 elements:

19 ~~((1))~~ (a) Provisions for the prevention of escapes of cultured  
20 marine finfish aquaculture products from enclosures, net pens, or  
21 other rearing vessels;

22 ~~((2))~~ (b) Provisions for the development and implementation of  
23 management plans to facilitate the most rapid recapture of live  
24 marine finfish aquaculture products that have escaped from  
25 enclosures, net pens, or other rearing vessels, and to prevent the  
26 spread or permanent escape of these products;

27 ~~((3))~~ (c) Provisions for the development of management  
28 practices based on the latest available science, to include:

29 ~~((a))~~ (i) Procedures for inspections of marine aquatic farming  
30 locations on a regular basis to determine conformity with law and the  
31 rules of the department relating to the operation of marine aquatic  
32 farming locations; and

33 ~~((b))~~ (ii) Operating procedures at marine aquatic farming  
34 locations to prevent the escape of marine finfish, to include the use  
35 of net antifoulants;

36 ~~((4))~~ (d) Provisions for the eradication of those cultured  
37 marine finfish aquaculture products that have escaped from  
38 enclosures, net pens, or other rearing vessels found spawning in  
39 state waters;

1       (~~(+5)~~) (e) Provisions for the determination of appropriate  
2 species, stocks, and races of marine finfish aquaculture products  
3 allowed to be cultured at specific locations and sites;

4       (~~(+6)~~) (f) Provisions for the development of an Atlantic salmon  
5 watch program similar to the one in operation in British Columbia,  
6 Canada. The program must provide for the monitoring of escapes of  
7 Atlantic salmon from marine aquatic farming locations, monitor the  
8 occurrence of naturally produced Atlantic salmon, determine the  
9 impact of Atlantic salmon on naturally produced and cultured finfish  
10 stocks, provide a focal point for consolidation of scientific  
11 information, and provide a forum for interaction and education of the  
12 public; and

13       (~~(+7)~~) (g) Provisions for the development of an education  
14 program to assist marine aquatic farmers so that they operate in an  
15 environmentally sound manner.

16       (2) The department must implement this section consistent with  
17 section 2 of this act.

18       **Sec. 6.** RCW 90.48.220 and 1993 c 296 s 1 are each amended to  
19 read as follows:

20       (1) For the purposes of this section "marine finfish rearing  
21 facilities" means those private and public facilities located within  
22 the salt water of the state where finfish are fed, nurtured, held,  
23 maintained, or reared to reach the size of release or for market  
24 sale.

25       (2) Not later than October 31, 1994, the department shall adopt  
26 criteria under chapter 34.05 RCW for allowable sediment impacts from  
27 organic enrichment due to marine finfish rearing facilities.

28       (3) Not later than June 30, 1995, the department shall adopt  
29 standards under chapter 34.05 RCW for waste discharges from marine  
30 finfish rearing facilities. In establishing these standards, the  
31 department shall review and incorporate, to the extent possible,  
32 studies conducted by state and federal agencies on waste discharges  
33 from marine finfish rearing facilities, and any reports and other  
34 materials prepared by technical committees on waste discharges from  
35 marine finfish rearing facilities. The department shall approve or  
36 deny discharge permit applications for marine finfish rearing  
37 facilities within one hundred eighty days from the date of  
38 application, unless a longer time is required to satisfy public  
39 participation requirements in the permit process in accordance with

1 applicable rules, or compliance with the requirements of the state  
2 environmental policy act under chapter 43.21C RCW. The department  
3 shall notify applicants as soon as it determines that a proposed  
4 discharge meets or fails to comply with the standards adopted  
5 pursuant to this section, or if a time period longer than one hundred  
6 eighty days is necessary to satisfy public participation requirements  
7 of the state environmental policy act.

8 (4) The department may adopt rules to exempt marine finfish  
9 rearing facilities not requiring national pollutant discharge  
10 elimination system permits under the federal water pollution control  
11 act from the discharge permit requirement.

12 (5) The department must implement this section consistent with  
13 section 3 of this act.

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