

PSHB 2220 (H-2120.4/07)
by Representative Upthegrove

Effect Statement

This substitute bill requires the Sea Grant program at the University of Washington to conduct a set of literature reviews and research efforts regarding geoduck aquaculture, limits the Department of Natural Resources to leasing no more than 25 acres of tidal land for geoduck aquaculture until the completion of the Sea Grant's research, creates the Shellfish Aquaculture Regulatory Committee to develop recommendations for a regulatory system for aquaculture and guide the Department of Ecology in developing guidelines for geoduck aquaculture, and directs the Department of Ecology to adopt new guidelines for geoduck aquaculture under the Shorelines Management Act.

1 AN ACT Relating to shellfish; amending RCW 79.135.100; and adding
2 new sections to chapter 28B.20 RCW; and creating new sections.

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

5
6 NEW SECTION. **Sec. 1.** A new section is added to chapter 28B.20 RCW
7 to read as follows:

8 (1) The sea grant program at the University of Washington shall,
9 consistent with this section, commission a series of scientific
10 research studies that examines the possible effects, including the
11 cumulative effects, of the current prevalent geoduck aquaculture
12 techniques and practices on the natural environment in and around Puget
13 Sound, including the Strait of Juan de Fuca. The sea grant program
14 shall use funding provided from the geoduck aquaculture research
15 account created in section 2 of this act to review existing literature,
16 directly perform research identified as needed, or to enter into and
17 manage contracts with scientific organizations or institutions to
18 accomplish these results.

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

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

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

23 (5) To satisfy the minimum requirements of subsection (1) of this
24 section, the sea grant program shall review all scientific research
25 that is existing or in progress that examines the possible effect of
26 currently prevalent shellfish practices, including geoduck practices,
27 on the natural environment, and prioritize and conduct new studies as
28 needed, to measure and assess the following:

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

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

35 (c) The extent to which geoducks in standard aquaculture tracts
36 alter the ecological characteristics of overlying waters while the
37 tracts are submerged, including impacts on species diversity, the
38 abundance of other benthic organisms;

39 (d) Baseline information regarding naturally existing parasites and

1 diseases in wild and cultured geoducks, including whether and to what
2 extent commercial intertidal geoduck aquaculture practices impact the
3 baseline;

4 (e) Genetic interactions between cultured and wild geoduck,
5 including measurements of differences between cultured geoducks and
6 wild geoducks in terms of genetics and reproductive status; and

7 (f) The impact of the use of sterile triploid geoducks and whether
8 triploid animals diminish the genetic interactions between wild and
9 cultured geoducks.

10 (6) If adequate funding is not made available for the completion of
11 all research required under this section, the sea grant program shall
12 consult with the shellfish aquaculture regulatory committee, via the
13 department of ecology, to prioritize which of the enumerated research
14 projects have the greatest cost/benefit ratio in terms of providing
15 information important for regulatory decisions; however, the study
16 identified in subsection (5)(b) of this section shall receive top
17 priority unless the sea grant program determines that an adequate study
18 addressing the issues identified in subsection(5)(b) of this section
19 has already been completed or is within six months of completion. The
20 prioritization process may include the addition of any new studies that
21 may be appropriate in addition to, or in place of, studies listed in
22 this section.

23 (7) When appropriate, all research commissioned under this section
24 must address localized and cumulative effects of geoduck aquaculture.

25 (8) The sea grant program and the University of Washington are
26 prohibited from retaining greater than fifteen percent of any funding
27 provided to implement this section for administrative overhead or other
28 deductions not directly associated with conducting the research
29 required by this section.

30 (9) Individual commissioned contracts under this section may
31 address single or multiple components listed for study under this
32 section.

33 (10) All research commissioned under this section must be completed
34 and the results reported to the appropriate committees of the
35 legislature by December 1, 2013. In addition, the sea grant program
36 shall provide the appropriate committees of the legislature with annual
37 reports updating the status and progress of the ongoing studies that
38 are completed in advance of the 2013 deadline.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 28B.20 RCW
2 to read as follows:

3 The geoduck aquaculture research account is created in the custody
4 of the state treasurer. All receipts from any legislative
5 appropriations directed to the account must be deposited in the
6 account. Expenditures from the account may only be used by the sea
7 grant program for the geoduck research projects identified by section
8 1 of this act. Only the president of the University of Washington or
9 the president's designee may authorize expenditures from the account.
10 The account is subject to the allotment procedures under chapter 43.88
11 RCW, but an appropriation is not required for expenditures.
12

13 **Sec. 3.** RCW 79.135.100 and 1984 c 221 s 10 are each amended to
14 read as follows:

15 (1) If state-owned aquatic lands are used for aquaculture
16 production or harvesting, rents and fees shall be established through
17 competitive bidding or negotiation.

18 (2) The department is prohibited from offering leases that would
19 permit the intertidal commercial aquaculture of geoducks on more than
20 twenty-five acres of state-owned aquatic lands a year until December 1,
21 2014. Any intertidal leases entered into by the department for geoduck
22 aquaculture must be conditioned in such a way that the department can
23 engage in monitoring of the environmental impacts of the lease's
24 execution, without unreasonably diminishing the economic viability of
25 the lease, and that the lease tracts are eligible to be made part of
26 the studies conducted under section 1 of this act.
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28 NEW SECTION. **Sec. 4.** (1) The shellfish aquaculture regulatory
29 committee is established to, consistent with this section, serve as an
30 advisory body to the department of ecology on regulatory processes and
31 approvals for all current and new shellfish aquaculture activities, and
32 the activities conducted pursuant to RCW 90.58.060, as the activities
33 relate to shellfish. The shellfish aquaculture regulatory committee is
34 advisory in nature, and no vote or action of the committee may overrule
35 existing statutes, regulations, or local ordinances.

36 (2) The shellfish aquaculture regulatory committee shall develop
37 recommendations as to:

38 (a) A regulatory system or permit process for all current and new
39 shellfish aquaculture projects and activities that integrates all

1 applicable existing local, state, and federal regulations and is
2 efficient both for the regulators and the regulated; and

3 (b) Appropriate guidelines for geoduck aquaculture operations to be
4 included in shorelines master programs under section 5 of this act.

5 (3)(a) The members of the shellfish aquaculture regulatory
6 committee shall be appointed by the director of the department of
7 ecology as follows:

8 (i) Two representatives of county government, one from a county
9 located on the Puget Sound, and one from a county located on the
10 Pacific Ocean;

11 (ii) Two individuals who are professionally engaged in the
12 commercial aquaculture of shellfish, one who owns or operates an
13 aquatic farm in Puget Sound, and one who owns or operates an aquatic
14 farm in state waters other than the Puget Sound;

15 (iii) Two representatives of organizations representing the
16 environmental community;

17 (iv) Two individuals who own shoreline property, one of which does
18 not have a commercial geoduck operation on his or her property and one
19 of which who does have a commercial geoduck operation on his or her
20 property; and

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

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

28 (4) The department of ecology shall provide administrative and
29 clerical assistance to the shellfish aquaculture regulatory committee
30 and all agencies listed in subsection (3) of this section shall provide
31 technical assistance.

32 (5) Nonagency members of the shellfish aquaculture regulatory
33 committee will not be compensated, but are entitled to be reimbursed
34 for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

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

1 proposed by the committee.

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

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

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10 NEW SECTION. **Sec. 5.** (1) The department shall develop, by rule,
11 guidelines for the appropriate siting and operation of geoduck
12 aquaculture operations to be included in any master program under this
13 section. The guidelines adopted under this section must be prepared
14 with the advice of the shellfish aquaculture regulatory committee
15 created in section 4 of this act, which shall serve as the advisory
16 committee for the development of the guidelines.

17 (2) The guidelines required under this section must be filed for
18 public review and comment no later than six months after the delivery
19 of the final report by the shellfish aquaculture regulatory committee
20 created in section 4 of this act.

21 (3) The department shall update the guidelines required under this
22 section, as necessary, after the completion of the geoduck research by
23 the sea grant program at the University of Washington required under
24 section 1 of this act.