
BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: S-3167.2/18 2nd draft

ATTY/TYPIST: ML:amh

BRIEF DESCRIPTION: Protecting the state's marine waters from the release of nonnative finfish from marine finfish aquaculture sites.

1 AN ACT Relating to protecting the state's marine waters from the
2 release of nonnative finfish from marine finfish aquaculture sites;
3 amending RCW 77.115.010, 77.115.030, 77.115.040, 77.125.030,
4 77.12.047, 90.48.220, and 50.04.075; adding a new section to chapter
5 79.105 RCW; adding a new section to chapter 77.12 RCW; adding a new
6 section to chapter 90.48 RCW; creating a new section; and providing
7 an expiration date.

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

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

12 (1) On and after the effective date of this section, the
13 department may not enter into a new lease or other use authorization
14 where the use includes marine finfish aquaculture of Atlantic salmon
15 or other nonnative finfish.

16 (2) On and after the effective date of this section, the
17 department may not renew or extend a lease or other use authorization
18 in existence on the effective date of this section where the use
19 includes marine finfish aquaculture of Atlantic salmon or other
20 nonnative finfish.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 77.12
2 RCW to read as follows:

3 On and after the effective date of this section, the department
4 may not authorize or issue any permit for a new activity that
5 involves the marine finfish aquaculture of Atlantic salmon or other
6 nonnative finfish.

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

9 On and after the effective date of this section, the department
10 may not authorize or issue any permit for a new activity that
11 involves the marine finfish aquaculture of Atlantic salmon or other
12 nonnative finfish.

13 **Sec. 4.** RCW 77.115.010 and 2000 c 107 s 122 are each amended to
14 read as follows:

15 (1) The director of agriculture and the director shall jointly
16 develop a program of disease inspection and control for aquatic
17 farmers as defined in RCW 15.85.020. The program shall be
18 administered by the department under rules established under this
19 section. The purpose of the program is to protect the aquaculture
20 industry and wildstock fisheries from a loss of productivity due to
21 aquatic diseases or maladies. As used in this section "diseases"
22 means, in addition to its ordinary meaning, infestations of parasites
23 or pests. The disease program may include, but is not limited to, the
24 following elements:

- 25 (a) Disease diagnosis;
- 26 (b) Import and transfer requirements;
- 27 (c) Provision for certification of stocks;
- 28 (d) Classification of diseases by severity;
- 29 (e) Provision for treatment of selected high-risk diseases;
- 30 (f) Provision for containment and eradication of high-risk
31 diseases;
- 32 (g) Provision for destruction of diseased cultured aquatic
33 products;
- 34 (h) Provision for quarantine of diseased cultured aquatic
35 products;
- 36 (i) Provision for coordination with state and federal agencies;
- 37 (j) Provision for development of preventative or control
38 measures;

1 (k) Provision for cooperative consultation service to aquatic
2 farmers; and

3 (1) Provision for disease history records.

4 (2) The commission shall adopt rules implementing this section.
5 However, such rules shall have the prior approval of the director of
6 agriculture and shall provide therein that the director of
7 agriculture has provided such approval. The director of agriculture
8 or the director's designee shall attend the rule-making hearings
9 conducted under chapter 34.05 RCW and shall assist in conducting
10 those hearings. The authorities granted the department by these rules
11 and by RCW 77.12.047(1)(g), 77.60.060, 77.60.080, 77.65.210,
12 (~~77.115.020,~~) 77.115.030, and 77.115.040 constitute the only
13 authorities of the department to regulate private sector cultured
14 aquatic products and aquatic farmers as defined in RCW 15.85.020.
15 Except as provided in subsection (3) of this section, no action may
16 be taken against any person to enforce these rules unless the
17 department has first provided the person an opportunity for a
18 hearing. In such a case, if the hearing is requested, no enforcement
19 action may be taken before the conclusion of that hearing.

20 (3) The rules adopted under this section shall specify the
21 emergency enforcement actions that may be taken by the department,
22 and the circumstances under which they may be taken, without first
23 providing the affected party with an opportunity for a hearing.
24 Neither the provisions of this subsection nor the provisions of
25 subsection (2) of this section shall preclude the department from
26 requesting the initiation of criminal proceedings for violations of
27 the disease inspection and control rules.

28 (4) A person shall not violate the rules adopted under subsection
29 (2) or (3) of this section or violate RCW 77.115.040.

30 (5) In administering the program established under this section,
31 the department shall use the services of a pathologist licensed to
32 practice veterinary medicine.

33 (6) The director in administering the program shall not place
34 constraints on or take enforcement actions in respect to the
35 aquaculture industry that are more rigorous than those placed on the
36 department or other fish-rearing entities.

37 (7) The department must implement this section consistent with
38 section 2 of this act.

1 **Sec. 5.** RCW 77.115.030 and 2000 c 107 s 124 are each amended to
2 read as follows:

3 (1) The director shall consult regarding the disease inspection
4 and control program established under RCW 77.115.010 with federal
5 agencies and Indian tribes to assure protection of state, federal,
6 and tribal aquatic resources and to protect private sector cultured
7 aquatic products from disease that could originate from waters or
8 facilities managed by those agencies.

9 (2) With regard to the program, the director may enter into
10 contracts or interagency agreements for diagnostic field services
11 with government agencies and institutions of higher education and
12 private industry.

13 (3) The director shall provide for the creation and distribution
14 of a roster of biologists having a specialty in the diagnosis or
15 treatment of diseases of fish or shellfish. The director shall adopt
16 rules specifying the qualifications which a person must have in order
17 to be placed on the roster.

18 (4) The department must implement this section consistent with
19 section 2 of this act.

20 **Sec. 6.** RCW 77.115.040 and 2011 c 339 s 37 are each amended to
21 read as follows:

22 (1) All aquatic farmers, as defined in RCW 15.85.020, shall
23 register with the department. The application fee is one hundred five
24 dollars. The director shall assign each aquatic farm a unique
25 registration number and develop and maintain in an electronic
26 database a registration list of all aquaculture farms. The department
27 shall establish procedures to annually update the aquatic farmer
28 information contained in the registration list. The department shall
29 coordinate with the department of health using shellfish growing area
30 certification data when updating the registration list.

31 (2) Registered aquaculture farms shall provide the department
32 with the following information:

33 (a) The name of the aquatic farmer;

34 (b) The address of the aquatic farmer;

35 (c) Contact information such as telephone, fax, web site, and
36 email address, if available;

37 (d) The number and location of acres under cultivation, including
38 a map displaying the location of the cultivated acres;

1 (e) The name of the landowner of the property being cultivated or
2 otherwise used in the aquatic farming operation;

3 (f) The private sector cultured aquatic product being propagated,
4 farmed, or cultivated; and

5 (g) Statistical production data.

6 (3) The state veterinarian shall be provided with registration
7 and statistical data by the department.

8 (4) The department must implement this section consistent with
9 section 2 of this act.

10 **Sec. 7.** RCW 77.125.030 and 2001 c 86 s 3 are each amended to
11 read as follows:

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

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

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

29 (3) Provisions for the development of management practices based
30 on the latest available science, to include:

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

35 (b) Operating procedures at marine aquatic farming locations to
36 prevent the escape of marine finfish, to include the use of net
37 antifoulants;

1 (4) Provisions for the eradication of those cultured marine
2 finfish aquaculture products that have escaped from enclosures, net
3 pens, or other rearing vessels found spawning in state waters;

4 (5) Provisions for the determination of appropriate species,
5 stocks, and races of marine finfish aquaculture products allowed to
6 be cultured at specific locations and sites;

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

15 (7) Provisions for the development of an education program to
16 assist marine aquatic farmers so that they operate in an
17 environmentally sound manner.

18 (8) The department must implement this section consistent with
19 section 2 of this act.

20 **Sec. 8.** RCW 77.12.047 and 2017 c 159 s 2 are each amended to
21 read as follows:

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

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

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

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

31 (d) Regulating the importation, transportation, possession,
32 disposal, landing, and sale of wildlife, fish, shellfish, or seaweed
33 within the state, whether acquired within or without the state.
34 However, this authority must be exercised consistent with section 2
35 of this act. Additionally, the rules of the department must prohibit
36 any person, including department staff, from translocating a live elk
37 from an area with elk affected by hoof disease to any other location
38 except:

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

4 (ii) Within an elk herd management plan area affected by hoof
5 disease.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 **Sec. 9.** RCW 90.48.220 and 1993 c 296 s 1 are each amended to
6 read as follows:

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

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

15 (3) Not later than June 30, 1995, the department shall adopt
16 standards under chapter 34.05 RCW for waste discharges from marine
17 finfish rearing facilities. In establishing these standards, the
18 department shall review and incorporate, to the extent possible,
19 studies conducted by state and federal agencies on waste discharges
20 from marine finfish rearing facilities, and any reports and other
21 materials prepared by technical committees on waste discharges from
22 marine finfish rearing facilities. The department shall approve or
23 deny discharge permit applications for marine finfish rearing
24 facilities within one hundred eighty days from the date of
25 application, unless a longer time is required to satisfy public
26 participation requirements in the permit process in accordance with
27 applicable rules, or compliance with the requirements of the state
28 environmental policy act under chapter 43.21C RCW. The department
29 shall notify applicants as soon as it determines that a proposed
30 discharge meets or fails to comply with the standards adopted
31 pursuant to this section, or if a time period longer than one hundred
32 eighty days is necessary to satisfy public participation requirements
33 of the state environmental policy act.

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

38 (5) The department must implement this section consistent with
39 section 3 of this act.

1 NEW SECTION. **Sec. 10.** (1) The departments of ecology, natural
2 resources, and fish and wildlife must continue the existing effort to
3 update guidance and informational resources to industry and
4 governments for planning and permitting commercial marine net pen
5 aquaculture.

6 (2) The effort must utilize new scientific information that has
7 emerged since the current state guidance that dates from the late
8 1980s through 1990, and address topics including local shoreline
9 permitting, water quality, impacts on native fish, shellfish, and
10 wildlife, and interagency coordination in permitting, inspections,
11 and enforcement. The guidance must be designed to eliminate
12 commercial marine net pen escapement and negative impacts to water
13 quality and native fish, shellfish, and wildlife.

14 (3) The guidance and resources must be completed by June 30,
15 2019.

16 (4) This section expires December 31, 2020.

17 **Sec. 11.** RCW 50.04.075 and 2011 c 4 s 12 are each amended to
18 read as follows:

19 (1) With respect to claims with an effective date prior to July
20 1, 2012, "dislocated worker" means any individual who:

21 (a) Has been terminated or received a notice of termination from
22 employment;

23 (b) Is eligible for or has exhausted entitlement to unemployment
24 compensation benefits; and

25 (c) Is unlikely to return to employment in the individual's
26 principal occupation or previous industry because of a diminishing
27 demand for their skills in that occupation or industry.

28 (2) With respect to claims with an effective date on or after
29 July 1, 2012, "dislocated worker" means any individual who:

30 (a) Has been involuntarily and indefinitely separated from
31 employment as a result of a permanent reduction of operations at the
32 individual's place of employment, ~~((or))~~ has separated from a
33 declining occupation, or has separated from employment as a result of
34 this act; and

35 (b) Is eligible for or has exhausted entitlement to unemployment
36 compensation benefits.

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