

CERTIFICATION OF ENROLLMENT
SECOND SUBSTITUTE HOUSE BILL 2220

60th Legislature
2007 Regular Session

Passed by the House April 20, 2007
Yeas 98 Nays 0

Speaker of the House of Representatives

Passed by the Senate April 20, 2007
Yeas 45 Nays 1

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SECOND SUBSTITUTE HOUSE BILL 2220** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SECOND SUBSTITUTE HOUSE BILL 2220

AS AMENDED BY THE SENATE

Passed Legislature - 2007 Regular Session

State of Washington 60th Legislature 2007 Regular Session

By House Committee on Appropriations (originally sponsored by Representative Lantz)

READ FIRST TIME 03/05/07.

1 AN ACT Relating to shellfish; amending RCW 79.135.100 and
2 77.115.040; adding new sections to chapter 28B.20 RCW; and creating new
3 sections.

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

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

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

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

1 (a) Analyze, through peer review, the credibility of the proposed
2 party to the contract, including whether the party has credible
3 experience and knowledge and has access to the facilities necessary to
4 fully execute the research required by the contract; and

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

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

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

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

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

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

36 (c) The extent to which geoducks in standard aquaculture tracts
37 alter the ecological characteristics of overlying waters while the

1 tracts are submerged, including impacts on species diversity, and the
2 abundance of other benthic organisms;

3 (d) Baseline information regarding naturally existing parasites and
4 diseases in wild and cultured geoducks, including whether and to what
5 extent commercial intertidal geoduck aquaculture practices impact the
6 baseline;

7 (e) Genetic interactions between cultured and wild geoduck,
8 including measurements of differences between cultured geoducks and
9 wild geoducks in terms of genetics and reproductive status; and

10 (f) The impact of the use of sterile triploid geoducks and whether
11 triploid animals diminish the genetic interactions between wild and
12 cultured geoducks.

13 (6) If adequate funding is not made available for the completion of
14 all research required under this section, the sea grant program shall
15 consult with the shellfish aquaculture regulatory committee, via the
16 department of ecology, to prioritize which of the enumerated research
17 projects have the greatest cost/benefit ratio in terms of providing
18 information important for regulatory decisions; however, the study
19 identified in subsection (5)(b) of this section shall receive top
20 priority. The prioritization process may include the addition of any
21 new studies that may be appropriate in addition to, or in place of,
22 studies listed in 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, the aquaculture industry, or any other private or
6 public source directed to the account must be deposited in the account.
7 Expenditures from the account may only be used by the sea grant program
8 for the geoduck research projects identified by section 1 of this act.
9 Only the president of the University of Washington or the president's
10 designee may authorize expenditures from the account. The account is
11 subject to the allotment procedures under chapter 43.88 RCW, but an
12 appropriation is not required for expenditures.

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) After an initial twenty-three acres are leased, the department
19 is prohibited from offering leases that would permit the intertidal
20 commercial aquaculture of geoducks on more than fifteen acres of state-
21 owned aquatic lands a year until December 1, 2014.

22 (3) Any intertidal leases entered into by the department for
23 geoduck aquaculture must be conditioned in such a way that the
24 department can engage in monitoring of the environmental impacts of the
25 lease's execution, without unreasonably diminishing the economic
26 viability of the lease, and that the lease tracts are eligible to be
27 made part of the studies conducted under section 1 of this act.

28 (4) The department must notify all abutting landowners and any
29 landowner within three hundred feet of the lands to be leased of the
30 intent of the department to lease any intertidal lands for the purposes
31 of geoduck aquaculture.

32 NEW SECTION. **Sec. 4.** (1) The shellfish aquaculture regulatory
33 committee is established to, consistent with this section, serve as an
34 advisory body to the department of ecology on regulatory processes and
35 approvals for all current and new shellfish aquaculture activities, and
36 the activities conducted pursuant to RCW 90.58.060, as the activities

1 relate to shellfish. The shellfish aquaculture regulatory committee is
2 advisory in nature, and no vote or action of the committee may overrule
3 existing statutes, regulations, or local ordinances.

4 (2) The shellfish aquaculture regulatory committee shall develop
5 recommendations as to:

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

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

14 (i) Methods for quantifying and reducing marine litter; and

15 (ii) Possible landowner notification policies and requirements for
16 establishing new geoduck aquaculture farms.

17 (3)(a) The members of the shellfish aquaculture regulatory
18 committee shall be appointed by the director of the department of
19 ecology as follows:

20 (i) Two representatives of county government, one from a county
21 located on the Puget Sound, and one from a county located on the
22 Pacific Ocean;

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

27 (iii) Two representatives of organizations representing the
28 environmental community;

29 (iv) Two individuals who own shoreline property, one of which does
30 not have a commercial geoduck operation on his or her property and one
31 of which who does have a commercial geoduck operation on his or her
32 property; and

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

36 (b) In addition to the other participants listed in this
37 subsection, the governor shall invite the full participation of two

1 tribal governments, at least one of which is located within the
2 drainage of the Puget Sound.

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

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

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

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

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

23 NEW SECTION. **Sec. 5.** (1) The department of ecology shall develop,
24 by rule, guidelines for the appropriate siting and operation of geoduck
25 aquaculture operations to be included in any master program under this
26 section. The guidelines adopted under this section must be prepared
27 with the advice of the shellfish aquaculture regulatory committee
28 created in section 4 of this act, which shall serve as the advisory
29 committee for the development of the guidelines.

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

34 (3) The department of ecology shall update the guidelines required
35 under this section, as necessary, after the completion of the geoduck
36 research by the sea grant program at the University of Washington
37 required under section 1 of this act.

1 **Sec. 6.** RCW 77.115.040 and 1993 sp.s. c 2 s 58 are each amended to
2 read as follows:

3 (1) All aquatic farmers, as defined in RCW 15.85.020, shall
4 register with the department. The director shall assign each aquatic
5 farm a unique registration number and develop and maintain in an
6 electronic database a registration list of all aquaculture farms. The
7 department shall establish procedures to annually update the aquatic
8 farmer information contained in the registration list. The department
9 shall coordinate with the department of health using shellfish growing
10 area certification data when updating the registration list.

11 (2) Registered aquaculture farms shall provide the department
12 ((production statistical data)) with the following information:

13 (a) The name of the aquatic farmer;

14 (b) The address of the aquatic farmer;

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

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

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

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

23 (g) Statistical production data.

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

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