
HOUSE BILL 2418

State of Washington

65th Legislature

2018 Regular Session

By Representatives Lytton, Chapman, Sawyer, Blake, and Tarleton

Prefiled 01/05/18.

1 AN ACT Relating to reducing impacts of nonnative finfish
2 aquaculture by delaying construction of new nonnative finfish
3 aquaculture facilities until thorough study, including structural
4 analysis of existing facilities, is complete; amending RCW 77.125.010
5 and 77.125.030; adding a new section to chapter 77.125 RCW; creating
6 a new section; and declaring an emergency.

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

8 **Sec. 1.** RCW 77.125.010 and 2001 c 86 s 1 are each amended to
9 read as follows:

10 Marine aquaculture net pen facilities in Washington state have
11 accidentally released Atlantic salmon into Puget Sound on multiple
12 occasions in recent years. The most recent incident, in August 2017,
13 resulted in a release of approximately one hundred sixty thousand
14 nonnative Atlantic salmon into Puget Sound. It is necessary to ensure
15 that the state's regulatory requirements are sufficient to
16 ((minimize)) eliminate escapes through the implementation of
17 statewide prevention measures.

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

1 (1) The departments of natural resources, fish and wildlife, and
2 ecology shall cooperatively conduct a detailed review of permitting
3 and lease requirements for Atlantic salmon or other nonnative marine
4 finfish aquaculture in Washington. The departments shall report the
5 results of the review, consistent with RCW 43.01.036, to the
6 appropriate committees of the legislature by October 31, 2018. At a
7 minimum, the report must cover:

8 (a) A summary of each permitting requirement necessary for
9 Atlantic salmon or other nonnative marine finfish aquaculture in
10 Washington waters and all insurance, inspection, and safety
11 requirements associated with each existing permit;

12 (b) How each permit ensures that Atlantic salmon or other
13 nonnative marine finfish aquaculture activities are conducted in a
14 manner that prevents negative impacts to the health and safety of
15 Washington waters and marine ecosystems, Pacific salmon health and
16 habitat, and tribal treaty fishing rights;

17 (c) A review of the department of natural resources' aquatic
18 lands lease program as it applies to leases for Atlantic salmon or
19 other nonnative marine finfish aquaculture, including:

20 (i) All insurance, inspection, and safety requirements associated
21 with each existing lease in order to use leased public land for
22 Atlantic salmon or other nonnative marine finfish aquaculture; and

23 (ii) How each insurance, inspection, and safety requirement
24 protects the health and safety of Washington waters and marine
25 ecosystems, Pacific salmon health and habitat, and tribal treaty
26 fishing rights; and

27 (d) Certification from the director of ecology, fish and wildlife
28 commission, and board of natural resources declaring whether or not
29 state leasing and permitting requirements are sufficient to prevent
30 negative impacts to the health and safety of Washington waters and
31 marine ecosystems, Pacific salmon health and habitat, and tribal
32 treaty fishing rights that may result from Atlantic salmon or other
33 nonnative marine finfish aquaculture.

34 (2) No new net pen facilities for the cultivation of Atlantic
35 salmon or other nonnative marine finfish may be constructed in
36 Washington waters until July 1, 2020. After July 1, 2020, new
37 facilities may be constructed only if:

38 (a) Rules requiring inspections of net pen facilities used for
39 the rearing of Atlantic salmon or other nonnative marine finfish
40 species are adopted pursuant to RCW 77.125.030;

1 (b) The reviews under this section and section 4 of this act are
2 completed; and

3 (c) The departments of ecology, fish and wildlife, and natural
4 resources certify, pursuant to subsection (1)(d) of this section,
5 that there are no negative impacts to the health and safety of
6 Washington waters and marine ecosystems, Pacific salmon health and
7 habitat, and tribal treaty fishing rights that may result from
8 Atlantic salmon or other nonnative marine finfish aquaculture. This
9 subsection (2) does not apply to repairs or improvements to existing
10 net pen facilities necessary to remain in compliance with existing
11 permitting and lease requirements.

12 (3) The department of natural resources may not enter into any
13 new or renew any existing aquatic lands leases authorized under RCW
14 79.135.150 for the propagation, farming, or cultivation of Atlantic
15 salmon or other nonnative marine finfish species until July 1, 2020.
16 After July 1, 2020, the department of natural resources may enter
17 into new or renew existing leases only if:

18 (a) Rules requiring inspections of net pen facilities used for
19 the rearing of Atlantic salmon or other nonnative marine finfish
20 species are adopted pursuant to RCW 77.125.030;

21 (b) The reviews under this section and section 4 of this act are
22 completed; and

23 (c) The departments of ecology, fish and wildlife, and natural
24 resources certify, pursuant to subsection (1)(d) of this section,
25 that there are no negative impacts to the health and safety of
26 Washington waters and marine ecosystems, Pacific salmon health and
27 habitat, and tribal treaty fishing rights that may result from
28 Atlantic salmon or other nonnative marine finfish aquaculture.

29 **Sec. 3.** RCW 77.125.030 and 2001 c 86 s 3 are each amended to
30 read as follows:

31 The director, in cooperation with the marine finfish aquatic
32 farmers, shall ~~((develop—proposed))~~ adopt rules for the
33 implementation, administration, and enforcement of marine finfish
34 aquaculture programs. In developing such proposed rules, the director
35 must use a negotiated rule-making process pursuant to RCW 34.05.310.
36 ~~((The proposed rules shall be submitted to the appropriate
37 legislative committees by January 1, 2002, to allow for legislative
38 review of the proposed rules.))~~ The ~~((proposed))~~ rules shall include
39 the following elements:

1 (1) Provisions for the prevention of escapes of cultured marine
2 finfish aquaculture products from enclosures, net pens, or other
3 rearing vessels.

4 (a) The provisions must require an inspection of any net pens
5 used for the rearing of Atlantic salmon or other nonnative marine
6 finfish. The inspection must be commissioned by the finfish farming
7 operator, must occur no less frequently than every two years, and
8 must cover the entire farm infrastructure, including all subsurface
9 components. The finfish farming operator is responsible for the costs
10 of the inspection. The inspection must be conducted by a marine
11 engineering firm with expertise in marine finfish aquatic farming
12 facilities. The marine engineering firm must be:

13 (i) Approved by the department in consultation with the
14 department of natural resources; and

15 (ii) Certified to practice engineering in the state of
16 Washington.

17 (b) The inspection must address the following elements related to
18 the prevention of escapes from enclosures, net pens, or other rearing
19 vessels:

20 (i) The operation and maintenance of the facilities using best
21 engineering practices;

22 (ii) The structural integrity of the facilities; and

23 (iii) Compliance with the appropriate permitting requirements of
24 the department and the department of ecology, and any terms and
25 conditions of operational or structural integrity of any lease held
26 by an agency of the state for the facility;

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

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

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

38 (b) Operating procedures at marine aquatic farming locations to
39 prevent the escape of marine finfish, to include the use of net
40 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;
15 ((and))

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

19 (8)(a) Rules to implement this section must be adopted by
20 December 31, 2018. Except as provided in (b) of this subsection, the
21 department and the department of ecology may not issue new permits or
22 renew any existing permits related to Atlantic salmon or other
23 nonnative marine finfish aquaculture until rules have been adopted to
24 implement this act and inspections required under this act are
25 concluded.

26 (b) The department may consider permits for the transport of
27 Atlantic salmon or other nonnative marine finfish aquaculture
28 products under WAC 220-370-190 as it existed on the effective date of
29 this section.

30 NEW SECTION. Sec. 4. The University of Washington school of
31 aquatic and fishery sciences, in cooperation with Western Washington
32 University and Washington State University shall conduct a detailed
33 analysis of nonnative finfish aquaculture in Washington. The analysis
34 must include freshwater and upland aquaculture in addition to marine
35 aquaculture. The University of Washington shall invite consultation
36 and participation from the Northwest Indian fisheries commission and
37 the Northwest Indian College. By December 1, 2018, the analysis must
38 be submitted consistent with RCW 43.01.036 to the appropriate
39 committees of the legislature, the fish and wildlife commission, the

1 board of natural resources, the invasive species council, and the
2 Northwest Indian fisheries commission. At a minimum, the study must
3 include:

4 (1) A timeline of nonnative finfish aquaculture in Washington and
5 associated legislation;

6 (2) Previous escapes in Washington waters and resulting impacts
7 to native species;

8 (3) An analysis of finfish aquaculture in other states,
9 countries, or provinces, and impacts of and regulatory responses to
10 escapes of nonnative finfish species;

11 (4) An analysis of potential impacts to native species resulting
12 from competition for resources, such as food sources and habitat,
13 from escaped nonnative finfish;

14 (5) Potential genetic consequences of nonnative finfish species
15 interbreeding with native finfish species; and

16 (6) Recommendations on how to balance the benefits and negative
17 consequences of nonnative finfish aquaculture in a way that
18 prioritizes the health of native aquatic species.

19 NEW SECTION. **Sec. 5.** If any provision of this act or its
20 application to any person or circumstance is held invalid, the
21 remainder of the act or the application of the provision to other
22 persons or circumstances is not affected.

23 NEW SECTION. **Sec. 6.** This act is necessary for the immediate
24 preservation of the public peace, health, or safety, or support of
25 the state government and its existing public institutions, and takes
26 effect immediately.

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