
SENATE BILL 5322

State of Washington

66th Legislature

2019 Regular Session

By Senators Palumbo, Carlyle, Wellman, Hunt, and McCoy

1 AN ACT Relating to ensuring compliance with the federal clean
2 water act by prohibiting certain discharges into waters of the state;
3 adding a new section to chapter 90.48 RCW; creating a new section;
4 and prescribing penalties.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that under RCW
7 90.48.260, the department of ecology is directed to implement and
8 comply with the federal clean water act. The legislature further
9 finds that Washington state, unlike other states and the
10 environmental protection agency, has taken no action to regulate or
11 limit water quality impacts from motorized or gravity siphon aquatic
12 mining. The legislature also finds that federal courts have
13 determined that discharges from this activity require regulation
14 under the clean water act and that Washington's attorney general has
15 supported such regulations in other states as necessary to protect
16 water quality and fish species, even though such protections do not
17 exist in Washington state. The legislature further finds that harmful
18 water quality impacts are occurring in areas designated as critical
19 habitat for threatened or endangered steelhead, salmon, and bull
20 trout, including spawning areas for chinook salmon relied on by
21 southern resident orcas.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 90.48
2 RCW to read as follows:

3 (1) A discharge to waters of the state from a motorized or
4 gravity siphon aquatic mining operation is subject to the
5 department's authority under this chapter and the federal clean water
6 act.

7 (2) The following act or acts are prohibited: Motorized or
8 gravity siphon aquatic mining or discharge of effluent from such
9 activity within the ordinary high water mark of any waters of the
10 state that has been designated under the endangered species act as
11 critical habitat, or would impact critical habitat for salmon,
12 steelhead, or bull trout. This includes all fresh waters with
13 designated uses of: Salmonid spawning, rearing, and migration.

14 (3) A person commits the offense of unlawful motorized or gravity
15 siphon aquatic mining if the person engages in such an activity in
16 violation of this chapter or the federal clean water act. Such an
17 offense is subject to enforcement under this chapter.

18 (4) For the purposes of this section, "motorized or gravity
19 siphon aquatic mining" means mining using any form of motorized
20 equipment, including but not limited to a motorized suction dredge,
21 or a gravity siphon suction dredge, for the purpose of extracting
22 gold, silver, or other precious metals, that involves a discharge
23 within the ordinary high water mark of waters of the state.

24 (5) This section does not apply to:

25 (a) Aquatic mining using nonmotorized methods, such as gold
26 panning, if the nonmotorized method does not involve use of a gravity
27 siphon suction dredge;

28 (b) Mining operations where no part of the operation or discharge
29 of effluent from the operation is within the ordinary high water mark
30 of waters of the state;

31 (c) Surface mining operations regulated by the department of
32 natural resources under Title 78 RCW; or

33 (d) Metals mining and milling operations as defined in chapter
34 78.56 RCW.

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