
HOUSE BILL 2071

State of Washington 60th Legislature 2007 Regular Session

By Representatives Eickmeyer, Upthegrove, Blake, Flannigan and Rolfes

Read first time 02/07/2007. Referred to Committee on Select
Committee on Puget Sound.

1 AN ACT Relating to the state's management of resources in Hood
2 Canal's aquatic rehabilitation zone one; amending RCW 79.135.220 and
3 79.135.230; adding a new section to chapter 77.65 RCW; adding a new
4 section to chapter 77.12 RCW; and creating a new section.

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

6 NEW SECTION. **Sec. 1.** (1) The legislature finds that the marine
7 waters of Hood Canal are unique in their fragility, vulnerability, and
8 high demand for extra care in their management. In recognition of this
9 fragile condition, the legislature has designated Hood Canal as the
10 state's first aquatic rehabilitation zone, allowing its unique
11 challenges and features to be addressed individually.

12 (2) The legislature further finds that courts have interpreted
13 treaties entered into between the United States and the Indian tribes
14 indigenous to the Hood Canal area to reserve one-half of the available
15 fish and shellfish to nontribal members.

16 (3) It is the intent of this act for the state of Washington, as
17 the governmental entity responsible for the half of the fishery
18 resources available to nontribal members, to use the one-half of the

1 fishery reserved to its nontribal residents for the conservation and
2 rehabilitation of the overall marine ecosystem of aquatic
3 rehabilitation zone one.

4 (4) This act does not represent an intent on the part of the state
5 to choose not to use its share of the affected fisheries, to waste
6 harvestable fish or shellfish, or to surrender the reserved and
7 dedicated state share to other comanagers of the resource. Conversely,
8 this act signifies the intent of the state to put to use its dedicated
9 share of the affected fisheries in a manner that best protects,
10 conserves, and rehabilitates the waters and ecosystem of aquatic
11 rehabilitation zone one. Without using its share of the resource in
12 this manner, the legislature finds that the overall health of aquatic
13 rehabilitation zone one will continue to decline, eventually resulting
14 in the extinction of any future commercially viable fisheries.

15 (5) It is the intent of the legislature for the department of fish
16 and wildlife, the office of the governor, and the office of the
17 attorney general to vigorously defend and protect the right of the
18 state to use the dedicated share of the fishery reserved to it by
19 treaties for the conservation, protection, and rehabilitation of
20 aquatic rehabilitation zone one, and to not see its chosen use of the
21 resource surrendered to consumptive harvest of other fishery
22 comanagers.

23 NEW SECTION. **Sec. 2.** A new section is added to chapter 77.65 RCW
24 to read as follows:

25 (1) Until otherwise directed by the legislature, the department and
26 the department of natural resources are prohibited from entering or
27 reentering into any management agreements with another state agency or
28 other governmental entity for aquatic rehabilitation zone one, as
29 established in RCW 90.88.010, that would, in the subtidal areas of
30 aquatic rehabilitation zone one south of a line projected from Brown
31 Point in Jefferson county and a location in Kitsap county due east
32 across Hood Canal from Brown Point, allow for the commercial harvest of
33 any naturally occurring geoduck below the mean low tide line.

34 (2) The department and the department of natural resources are
35 prohibited from entering or reentering into any management agreements
36 with another state agency or other governmental entity for aquatic
37 rehabilitation zone one, as established in RCW 90.88.010, that would,

1 in the area of aquatic rehabilitation zone one north of a line
2 projected from Brown Point in Jefferson county and a location in Kitsap
3 county due east across Hood Canal from Brown Point and south of a line
4 projected from Tala Point in Jefferson county to Foulweather Bluff in
5 Kitsap county, allow for the commercial harvest of naturally occurring
6 geoduck below the mean low tide line in an amount greater than seventy
7 percent of the maximum allowable harvest level by count for geoduck
8 tracts in that area.

9 (3) Any geoducks located in the areas of aquatic rehabilitation
10 zone one referenced in this section that are not used by the state for
11 a consumptive use must be managed and used by the state for both the
12 conservation of the geoduck resource in aquatic rehabilitation zone one
13 and the conservation and rehabilitation of the overall marine ecosystem
14 of aquatic rehabilitation zone one.

15 **Sec. 3.** RCW 79.135.220 and 2005 c 155 s 709 are each amended to
16 read as follows:

17 (1) The department shall designate the areas of state-owned aquatic
18 lands that are available for geoduck harvesting by licensed geoduck
19 harvesters in accordance with chapter ((79.90)) 79.135 RCW. However,
20 the department may not designate any aquatic lands available for the
21 commercial harvest of naturally occurring geoduck in the subtidal areas
22 of aquatic rehabilitation zone one, as established in RCW 90.88.010,
23 south of a line projected from Brown Point in Jefferson county and a
24 location in Kitsap county due east across Hood Canal from Brown Point.

25 (2) Any geoducks located in the area of aquatic rehabilitation zone
26 one referenced in this section must be managed and used by the state
27 for both the conservation of the geoduck resource in aquatic
28 rehabilitation zone one and the conservation and rehabilitation of the
29 overall marine ecosystem of aquatic rehabilitation zone one.

30 **Sec. 4.** RCW 79.135.230 and 2005 c 155 s 718 are each amended to
31 read as follows:

32 (1) Except as conditioned in section 2 of this act, the department
33 may enter into agreements with the department of fish and wildlife for
34 the development of an intensive management plan for geoducks, including
35 the development and operation of a geoduck hatchery.

1 (2) Any management plan or agreement developed by the department
2 and the department of fish and wildlife may not use either the
3 individual counts of geoduck or the cumulative geoduck biomass found in
4 aquatic rehabilitation zone one, as established in RCW 90.88.010, as
5 part of a larger management plan for the Puget Sound. The geoducks
6 located in aquatic rehabilitation zone one must be managed as a
7 resource discreet from the geoducks located in other portions of the
8 Puget Sound.

9 NEW SECTION. Sec. 5. A new section is added to chapter 77.12 RCW
10 to read as follows:

11 (1) In adopting rules and establishing seasons applicable to
12 aquatic rehabilitation zone one, as established in RCW 90.88.010, the
13 commission shall ensure that:

14 (a) Except as otherwise provided in this section, there shall be no
15 permissible commercial harvest of any aquatic species located in the
16 subtidal waters of aquatic rehabilitation zone one; and

17 (b) There shall be no permissible recreational harvest of any
18 species of groundfish.

19 (2) The limitations on commercial fishing established in this
20 section do not apply to hatchery-raised chum salmon.

21 (3) The fish that are prohibited from being harvested for a
22 consumptive use must be managed and used by the commission for both the
23 conservation of the fish species for which the fish belongs and the
24 conservation and rehabilitation of the overall marine ecosystem of
25 aquatic rehabilitation zone one.

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