AN ACT Relating to shellfish aquaculture; amending RCW 28B.30.632, 28B.30.634, and 28B.20.475; amending 2007 c 216 s 4 (uncodified); adding a new section to chapter 43.21A RCW; creating a new section; and repealing RCW 43.21A.681.

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

NEW SECTION.  Sec. 1. (1) The legislature finds that shellfish aquaculture is a dynamic and rapidly evolving industry that is important to the economy, history, and identity of western Washington and many of the communities surrounding the Puget Sound.

(2) The legislature further finds that not all of the existing scientific knowledge bases and state and local regulatory structures have kept up with, or are positioned to continue to keep up with, the rapid changes in technology, techniques, growing patterns, and markets of the shellfish aquaculture industry.

(3) The legislature further finds that if there is a prolonged period of time where scientific knowledge and state regulatory systems are unable to develop in conjunction with the industry, this will lead to an imbalance in three of the factors necessary for continued economic growth: A thriving shellfish aquaculture industry; a healthy
marine ecosystem; and a social license for the shellfish aquaculture industry to operate in a manner that is harmonious with other aquatic uses.

(4) The legislature further finds that public investment in research and continued thoughtful evolution in regulatory direction can help develop and maintain the needed thriving industry, healthy ecosystem, and social license to operate.

Sec. 2. RCW 28B.30.632 and 2007 c 341 s 64 are each amended to read as follows:

(1) The sea grant and cooperative extension shall jointly administer a program to provide field agents to work with local governments, property owners, and the general public to increase the propagation of shellfish, and to address Puget Sound water quality problems within Kitsap, Mason, and Jefferson counties that may limit shellfish propagation potential. The sea grant and cooperative extension shall each make available the services of no less than two agents within these counties for the purposes of this section.

(2) The responsibilities of the field agents shall include but not be limited to the following:

(a) Provide technical assistance to property owners, marine industry owners and operators, and others, regarding methods and practices to address nonpoint and point sources of pollution of Puget Sound;

(b) Provide technical assistance to address water quality problems limiting opportunities for enhancing the recreational harvest of shellfish;

(c) Provide technical assistance in the management and increased production of shellfish to facility operators or to those interested in establishing an operation;

(d) Assist local governments to develop and implement education and public involvement activities related to Puget Sound water quality;

(e) Assist in coordinating local water quality programs with region-wide and statewide programs;

(f) Provide information and assistance to local watershed committees.

(3) The sea grant and cooperative extension shall mutually coordinate their field agent activities to avoid duplicative efforts
and to ensure that the full range of responsibilities under RCW 28B.30.632 through 28B.30.636 are carried out. They shall consult with the Puget Sound partnership, created in RCW 90.71.210, and ensure consistency with any of the Puget Sound partnership's water quality management plans.

(4) Recognizing the special expertise of both agencies, the sea grant and cooperative extension shall cooperate to divide their activities as follows:

(a) Sea grant shall have primary responsibility to address water quality issues related to activities within Puget Sound, and to provide assistance regarding the management and improvement of shellfish production; and

(b) Cooperative extension shall have primary responsibility to address upland and freshwater activities affecting Puget Sound water quality and associated watersheds.

(5)(a) In addition to the other responsibilities of this section, the cooperative extension must establish a shellfish aquaculture public information center in one of the following counties: Mason, Thurston, Kitsap, Pierce, or Jefferson. Regardless of location, the shellfish aquaculture public information center must provide services within all five counties.

(b) The shellfish aquaculture public information center may provide the following services:

(i) Develop a repository of information on sustainable aquaculture practices;

(ii) Work with private growers to provide technical assistance regarding sustainable aquaculture practices and permit and regulation compliance;

(iii) Develop educational materials, kiosks, interpretative centers, and other forums regarding the history, importance, and sustainability of the shellfish industry;

(iv) Serve as a single point of contact for the public and as a public ombuds regarding questions about shellfish aquaculture permitting, enforcement, and concerns;

(v) Liaison with state and county governments to assist in resolving or explaining public questions and concerns;

(vi) Seek federal funding for aquaculture research and development;
(vii) Serve as an information clearinghouse for aquaculture activities and regulations;
(viii) Serve as a point of contact and a public clearinghouse regarding abandoned aquaculture sites littered with derelict gear, including investigations into any known owners with site restoration responsibilities and other clean-up options when responsible owners are unknown or nonexistent; and
(ix) Fulfill other duties deemed relevant to the assistance of a vibrant, sustainable, shellfish aquaculture industry.

Sec. 3. RCW 28B.30.634 and 1990 c 289 s 3 are each amended to read as follows:
Except for the shellfish aquaculture public information center required under RCW 28B.30.632, the sea grant and cooperative extension shall require a match from nonstate sources of at least twenty-five percent of the cost of the services provided, and not exceeding fifty percent of the cost. The match may be either monetary compensation or in-kind services, such as the provision for office space or clerical support. Only direct costs of providing the services, excluding costs of administrative overhead, may be included in the estimate of costs.

Sec. 4. RCW 28B.20.475 and 2007 c 216 s 1 are each amended to read as follows:
(1) The sea grant program at the University of Washington shall, consistent with this section, commission ((a)) an ongoing series of scientific research studies that examines the possible effects, including the cumulative effects, of the current prevalent geoduck aquaculture techniques and practices on the natural environment in and around Puget Sound, including the Strait of Juan de Fuca. The sea grant program shall use funding provided from the geoduck aquaculture research account created in RCW 28B.20.476 to review existing literature, directly perform research identified as needed, or to enter into and manage contracts with scientific organizations or institutions to accomplish these results.
(2) Prior to entering into a contract with a scientific organization or institution, the sea grant program must:
   (a) Analyze, through peer review, the credibility of the proposed
party to the contract, including whether the party has credible
experience and knowledge and has access to the facilities necessary to
fully execute the research required by the contract; and

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

(3) To the degree appropriate, research conducted under this
section should be coordinated with any research efforts by the sea
grant program related to ocean acidification.

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

((5)) (5) In prioritizing and directing research under this
section, the sea grant program shall meet with the department of
ecology at least annually and ((rely on)) consider guidance submitted
by the department of ecology. The department of ecology shall convene
the shellfish aquaculture ((regulatory)) committee created in section
((4, chapter 216, Laws of 2007)) 5 of this act as necessary to serve as
((an oversight)) a steering committee to formulate the guidance
provided to the sea grant program. The objective of the ((oversight))
steering committee, and the resulting guidance provided to the sea
grant program, is to ensure that the research required under this
section ((satisfies)) assists the planning, permitting, and data
management needs of the state, to assist in the prioritization of
research ((given limited funding)), and to help identify any research
that is beneficial to complete other than what is listed in subsection
((5)) (6) of this section.

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

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

(b) The environmental effects of commercial harvesting of geoducks
from intertidal geoduck beds, focusing on current prevalent harvesting

p. 5  HB 1761
techniques, including a review of the recovery rates for benthic communities after harvest;

(c) The extent to which geoducks in standard aquaculture tracts alter the ecological characteristics of overlying waters while the tracts are submerged, including impacts on species diversity, and the abundance of other benthic organisms;

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

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

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

(7) If adequate funding is not made available for the completion of all research required under this section, the sea grant program shall consult with the shellfish aquaculture (regulatory) committee, via the department of ecology, to prioritize which of the enumerated research projects have the greatest cost/benefit ratio in terms of providing information important for regulatory decisions; however, the study identified in subsection (b) of this section shall receive top priority. The prioritization process may include the addition of any new studies that may be appropriate in addition to, or in place of, studies listed in this section.

(8) When appropriate, all research commissioned under this section must address localized and cumulative effects of geoduck aquaculture.

(9) The sea grant program and the University of Washington are prohibited from retaining greater than fifteen percent of any funding provided to implement this section for administrative overhead or other deductions not directly associated with conducting the research required by this section.

(10) Individual commissioned contracts under this section may address single or multiple components listed for study under this section.
(11) All initial research commissioned under this section must be completed and the results reported to the legislature consistent with RCW 43.01.036 by December 1, 2013. (In addition, the sea grant program shall provide the appropriate committees of the legislature with annual reports updating the status and progress of the ongoing studies that are completed in advance of the 2013 deadline.) Research completed after the initial report must be summarized for legislators upon request.

Sec. 5. 2007 c 216 s 4 (uncodified) is amended to read as follows:

(1) The shellfish aquaculture committee is established to, consistent with this section, serve as an advisory body to the department on regulatory processes and approvals for all current and new shellfish aquaculture activities, and the activities conducted pursuant to RCW 90.58.060, as the activities relate to shellfish. The shellfish aquaculture committee is advisory in nature, and no vote or action of the committee may overrule existing statutes, regulations, or local ordinances nor bind the decision-making process required of the University of Washington's sea grant program under RCW 28B.20.475.

(2) The shellfish aquaculture committee shall initially develop recommendations as to:

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

(b) Appropriate guidelines for geoduck aquaculture operations to be included in shoreline master programs. When developing the initial recommendations for guidelines under this subsection, the committee must examine the following:

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

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

(3) After the completion of the initial charge of work for the shellfish aquaculture committee, the committee must be reconstituted, maintained, and asked to meet as necessary only to advise the sea grant program at the University of Washington regarding the scoping of research under RCW 28B.20.475.
(4)(a) The members of the shellfish aquaculture committee shall be appointed by the director of the department as follows:

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

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

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

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

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

(b) In addition to the other participants listed in this subsection, the governor shall invite the full participation of two tribal governments, at least one of which is located within the drainage of the Puget Sound.

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

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

(7) Any participation by a Native American tribe on the shellfish aquaculture committee shall not, under any circumstances, be viewed as an admission by the tribe that any of its activities, or those of its members, are subject to any of the statutes, regulations, ordinances, standards, or permit systems reviewed, considered, or proposed by the committee.
The shellfish aquaculture (regulatory) committee is authorized to form technical advisory panels as needed and appoint to them members not on the shellfish aquaculture (regulatory) committee.

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

NEW SECTION. Sec. 6. Section 5 of this act is codified as a new section in chapter 43.21A RCW.

NEW SECTION. Sec. 7. RCW 43.21A.681 (Geoduck aquaculture operations--Guidelines--Rules) and 2007 c 216 s 5 are each repealed.