
SUBSTITUTE HOUSE BILL 1764

State of Washington 63rd Legislature 2013 Regular Session

By House Agriculture & Natural Resources (originally sponsored by Representatives Chandler, Stanford, Blake, Appleton, and Dunshee)

READ FIRST TIME 02/22/13.

1 AN ACT Relating to geoduck driver licenses; amending RCW 77.65.410;
2 reenacting and amending RCW 79.135.210; adding a new section to chapter
3 77.65 RCW; adding a new section to chapter 43.30 RCW; creating a new
4 section; providing an expiration date; and declaring an emergency.

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

6 **Sec. 1.** RCW 77.65.410 and 1993 c 340 s 24 are each amended to read
7 as follows:

8 (1)(a) Every diver engaged in the commercial harvest of subtidal
9 geoduck clams shall obtain a ((nontransferable)) geoduck diver license.
10 An individual may only own one license and all geoduck harvesting
11 performed under the license must be done personally by the actual
12 license holder.

13 (b) The licensing requirement created in this section does not
14 apply to divers engaged in activities related to the cultivation of
15 geoduck clams as private sector cultured aquatic products as defined in
16 RCW 15.85.020.

17 (c) The geoduck diver license is a nontransferable license.

18 (2) Beginning January 1, 2014, the director may not issue more than
19 seventy-seven geoduck diver licenses in any one year.

1 (3) The annual geoduck diver license fee is as provided in RCW
2 77.65.440.

3 (4) A geoduck diver license expires on December 31st of each year.
4 Prior to the license's expiration, a license holder may apply to renew
5 the license holder's geoduck diver license only if the license holder
6 is included on a department of natural resources' geoduck harvest
7 agreement plan of operation during the applicable current calendar
8 year.

9 (5) Beginning January 1, 2014, each person applying for or renewing
10 a geoduck diver license under this section must complete the safety
11 program established in section 4 of this act prior to being issued a
12 license.

13 NEW SECTION. Sec. 2. (1) The director of the department of fish
14 and wildlife shall give individuals who held a geoduck diver license in
15 2011, 2012, or 2013, and who were listed on a department of natural
16 resources' geoduck harvest agreement plan of operation during the same
17 period, the right of first refusal to purchase a geoduck diver license
18 for the 2014 license year.

19 (2) Any license holder who qualifies for the right of first refusal
20 under this section must have his or her intent to purchase a geoduck
21 diver license in 2014 known to the director of the department of fish
22 and wildlife within six months of the effective date of this section.

23 (3) This section expires June 30, 2015.

24 NEW SECTION. Sec. 3. A new section is added to chapter 77.65 RCW
25 to read as follows:

26 The department must revoke a geoduck diver license issued under RCW
27 77.65.410, and the licensee must surrender the license, if the licensee
28 is found in violation of a department of natural resources' geoduck
29 harvest agreement two or more times. The person surrendering the
30 geoduck diver license may not hold another geoduck diver license for a
31 period of one calendar year from the date the license is surrendered.

32 NEW SECTION. Sec. 4. A new section is added to chapter 43.30 RCW
33 to read as follows:

34 (1) The department shall establish a geoduck harvest safety
35 committee. The geoduck harvest safety committee consists of one

1 representative from the department, one representative from the
2 department's geoduck diver advisory committee, one representative from
3 an organization representing the interests of geoduck harvesters, and
4 one representative from an organization representing the interests of
5 geoduck divers.

6 (2) The geoduck harvest safety committee must meet at least
7 quarterly. By December 1, 2013, the committee must establish a safety
8 program for geoduck diver license holders. The committee must continue
9 to review and evaluate the safety program's success and effectiveness
10 and make appropriate changes to the program.

11 **Sec. 5.** RCW 79.135.210 and 2005 c 155 s 708 and 2005 c 113 s 3 are
12 each reenacted and amended to read as follows:

13 (1) Except as provided in RCW 79.135.040, geoducks shall be sold as
14 valuable materials under the provisions of chapter 79.90 RCW. After
15 confirmation of the sale, the department may enter into an agreement
16 with the purchaser for the harvesting of geoducks. The department may
17 place terms and conditions in the harvesting agreements as the
18 department deems necessary. The department may enforce the provisions
19 of any harvesting agreement by suspending or canceling the harvesting
20 agreement or through any other means contained in the harvesting
21 agreement. Any geoduck harvester may terminate a harvesting agreement
22 entered into pursuant to this subsection if actions of a governmental
23 agency, beyond the control of the harvester, its agents, or its
24 employees, prohibit harvesting, for a period exceeding thirty days
25 during the term of the harvesting agreement, except as provided within
26 the agreement. Upon termination of the agreement by the harvester, the
27 harvester shall be reimbursed by the department for the cost paid to
28 the department on the agreement, less the value of the harvest already
29 accomplished by the harvester under the agreement.

30 (2) Harvesting agreements under this title for the purpose of
31 harvesting geoducks shall require the harvester and the harvester's
32 agent or representatives to comply with all applicable commercial
33 diving safety standards and regulations promulgated and implemented by
34 the federal occupational safety and health administration established
35 under the federal occupational safety and health act of 1970 as the law
36 exists or as amended (84 Stat. 1590 et seq.; 29 U.S.C. Sec. 651 et
37 seq.). However, for the purposes of this section and RCW 77.60.070,

1 all persons who dive for geoducks are deemed to be employees as defined
2 by the federal occupational safety and health act. All harvesting
3 agreements shall provide that failure to comply with these standards is
4 cause for suspension or cancellation of the harvesting agreement.
5 Further, for the purposes of this subsection if the harvester contracts
6 with another person or entity for the harvesting of geoducks, the
7 harvesting agreement shall not be suspended or canceled if the
8 harvester terminates its business relationship with such an entity
9 until compliance with this subsection is secured.

10 (3) Beginning January 1, 2014, geoduck divers licensed under RCW
11 77.65.410 must annually complete the safety program established in
12 section 4 of this act in order to be maintained on a department of
13 natural resources' harvest agreement plan of operation.

14 NEW SECTION. **Sec. 6.** This act is necessary for the immediate
15 preservation of the public peace, health, or safety, or support of the
16 state government and its existing public institutions, and takes effect
17 immediately.

--- END ---