

**SB**

**275**

# ALASKA STATE LEGISLATURE

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Co-Chair  
Senate Resources Committee

Member  
Senate Judiciary Committee

## SENATOR LESIL MCGUIRE

### Sponsor Statement Senate Bill 275

Senate Bill 275 addresses longstanding attempts to determine compensation to the State of Alaska for harvests of common property geoduck clams that may remain on aquatic farm sites. Farmers need to clear their sites of wild geoducks in preparation for planting geoduck seed and lack of resolution on this issue has been a substantial impediment to the development of Alaska's geoduck farming industry.

The Alaska Supreme Court decided on April 16, 2004, that aquatic farm sites should contain only insignificant populations of wild geoduck clams. The Legislature expedited a bill that defined "insignificant" populations of geoducks as less than 2,000 pounds per acre. Since it appeared some sites already leased to farmers might exceed that amount, the legislation allowed ADF&G to determine "reasonable compensation" to the state for the harvest of "significant" wild geoduck stocks.

The last-minute timing of the decision did not leave the legislature enough time to debate different rates of compensation. Consequently, this measure provides the legislature with the opportunity to regain its taxing authority by allowing the legislature to set rates of compensation for the taking of state resources.

The first section of SB275 directs the Alaska Department of Fish and Game to consider the economic health of aquatic farming as it develops regulations. This section was developed in recognition of Article 8, Section 15 of the Alaska Constitution which allows the state to "promote the efficient development of aquaculture in the State."

When the actual costs are included, the Department rate represents an approximate 75% tax rate on the *net* profits of harvesting these geoducks, far higher than any other tax rate on resources in Alaska. Therefore, SB275 sets the tax rate for live geoducks at 10% of the gross value. This figure was determined by using ADF&G's formula of providing the state with 50 percent of the net profits of the sales. ADF&G's figure was lower because the agency did not consider all the verifiable costs of the farmers in particular the 3.5% Fisheries Business Tax. In addition, farmers also are required to replace each wild geoduck harvested by planting five juvenile geoducks on the farm site.

The bill also sets a tax rate of 3% on processed geoducks. The 3% rate was suggested by geoduck farmers during the public comment period on the proposed regulations as a good faith offer to provide some compensation to the state, even though they would lose money if they had to sell processed geoducks.

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## **SECTIONAL ANALYSIS SENATE BILL 275**

**Section 1** adds that the Commissioner of the Alaska Department of Fish & Game should consider the economic health and sustainability of the aquatic farming industry when it develops regulations for the aquatic farming industry.

**Section 2** amends the statute stating that the commissioner may authorize the permittee to remove and sell the excess amount of the wild stock if the permittee pays the department compensation in the amount of 10 % of the ex-vessel value for live products and 3% of the ex-vessel value for a processed product on top of the 3.5% fisheries business tax.

**Section 3** provides an effective date for this Act.

Information provided by Alaska Shellfish Growers Association  
Rodger Painter 957-0704  
Paul Fuhs 351-0407

#### Senate Bill 275

Reasonable compensation for significant wild geoducks on geoduck farms. Previous legislation required "reasonable compensation" but did not set a compensation rate.

The Association is proposing compensation to the state in the amount of 50% of the net profits from harvesting surplus wild geoducks from farm sites.

**\$3.50/lb** average exvessel price provided by Fish and Game = gross revenue

Farmer costs for harvesting and replacing wild geoducks:

**\$2.00/lb** payment to commercial divers for harvesting geoducks

**\$0.57/lb** reseeding cost

**\$0.12/lb** PSP testing

**\$0.11/lb** State raw fish tax

**\$2.80/lb** Total farmer harvesting cost

**\$3.50 minus \$2.80 = \$0.70/lb X 50% tax = \$0.35**

**\$3.50/lb ex vessel price divided by \$0.35 = 10% of exvessel value**

When this 10% is added to the raw fish tax, it would be a total of 13.5% in taxes paid to the state. **Return to State: \$0.47/lb. Return to farmer: \$0.35/lb.**

#### **Is this reasonable?**

This is four times the amount paid by the commercial geoduck divers. In addition, the farmers must replace and leave the same number of geoducks on the farm site at the end of their lease as were there when they started.

## Comparison of Impacts of Different Geoduck Tax Rates

The following is a comparison of ADF&G's two attempts to set a tax rate for "reasonable compensation" for the taking of significant stocks of wild geoducks on aquatic farm sites with a 10% gross value tax. This would apply only to 7 farms leased by the state prior to changes in state law forced by a state supreme court ruling. Current pre-leasing surveys by ADF&G (paid by the applicant) will ensure no new sites with "significant" wild stocks are leased and permitted by the state.

	ADF&G	Farmers	
Harvest Cost (vessel, fuel, deckhand)	\$ 1.62	\$ 2.00	Verified by farmers with receipts.
Testing Fees (PSP, water)	\$ 0.27	\$ 0.27	
Reseeding (hatchery seed)	\$ -	\$ 0.57	Used then eliminated by ADF&G. 5-1 replacement.
Fisheries Business Tax	\$ 0.11	\$ 0.11	
<b>Totals</b>	<b>\$ 2.00</b>	<b>\$ 2.95</b>	
2006-2007 Average Ex-vessel Value	\$ 3.50	\$ 3.50	
"Net" Profit per Lb.	\$ 1.50	\$ 0.55	
<b>50% Gross Value Tax</b>	<b>\$ 1.75</b>	<b>\$ 1.75</b>	
Farmer profit/loss	\$ (0.25)	\$ (1.20)	
<b>21% Gross Value Tax</b>	<b>\$ 0.74</b>	<b>\$ 0.74</b>	
Farmer Profit/Loss	\$ 0.77	\$ (0.19)	
<b>10% Gross Value Tax</b>	<b>\$ 0.35</b>	<b>\$ 0.35</b>	
Farmer Profit/Loss	\$ 1.15	\$ 0.20	

### What the Public Gets Out of the 10% Tax

Gross Value Tax	10%
Fisheries Business Tax	3.50%
Effective Tax rate	13.50%
Tax Revenue per pound	\$ 0.47

Plus five juvenile geoduck clams per wild adult harvested.

What the Farmer Gets/Lb.                   \$ 0.20