

# HOUSE BILL REPORT

## HB 2058

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### As Reported By House Committee On:

Natural Resources

**Title:** An act relating to aquatic nuisance species.

**Brief Description:** Limiting the spread of nonnative plant and animal species.

**Sponsors:** Representatives Regala, Linville, Rockefeller, Anderson, Eickmeyer, Stensen, Doumit, Buck, Hatfield, Kessler and Haigh.

### Brief History:

#### Committee Activity:

Natural Resources: 2/24/99, 3/1/99 [DPS].

#### Brief Summary of Substitute Bill

An Aquatic Nuisance Species Coordination Committee is created to help prevent the introduction and spread of aquatic nuisance species in the state. Inspection authority is given to the Washington State Patrol, the Department of Ecology, and the Department of Agriculture to prevent the introduction of nuisance species into the state. The Department of Fish and Wildlife may use the administrative hearings process to enforce violations of the prohibition against unlawful release of species into the state.

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### HOUSE COMMITTEE ON NATURAL RESOURCES

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Buck, Republican Co-Chair; Regala, Democratic Co-Chair; Anderson, Democratic Vice Chair; Sump, Republican Vice Chair; G. Chandler; Doumit; Eickmeyer; Pennington; Rockefeller and Stensen.

**Minority Report:** Without recommendation. Signed by 2 members: Representatives Clements and Ericksen.

**Staff:** Bill Lynch (786-7092).

### Background:

The Legislature created the Zebra Mussel and European Green Crab Task Force during the 1998 legislative session to develop recommendations regarding these aquatic nuisance species including control methods, inspection procedures, penalties, notification procedures, and eradication techniques.

The task force included a number of prioritized recommendations for addressing aquatic nuisance species as part of its report to the Legislature. The highest ranked priority was the creation of an aquatic nuisance species coordination committee. Other recommendations include the creation of a containment and early response program for zebra mussels, and the development of an aquatic species education program for boat owners and others.

The director of Fish and Wildlife may request the Fish and Wildlife Commission to designate nonnative animal species as deleterious exotic wildlife when the species poses a danger to the environment or other wildlife of the state. The commission may designate deleterious exotic wildlife. There is no similar authority for the director or commission to designate aquatic animal species which may pose a threat to the state.

It is a gross misdemeanor for a person to knowingly release, plant, or place live fish, wildlife, or aquatic plants in the state. It is a class C felony for a person to knowingly release, plant, or place fish or wildlife in the state that has been classified as deleterious exotic wildlife by the Fish and Wildlife Commission. There are no penalties for possessing, transporting, or holding deleterious exotic wildlife or aquatic nuisance species. These violations are currently not enforceable through the administrative hearings process.

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**Summary of Substitute Bill:**

An Aquatic Nuisance Species Coordination Committee is created to foster state, federal, tribal, and private cooperation on aquatic nuisance species issues. The committee is to give special emphasis to preventing the introduction and spread of aquatic nuisance species.

Members of the committee consist of representatives of the Department of Fish and Wildlife, Department of Ecology, Department of Agriculture, Department of Natural Resources, State Noxious Weed Control Board, Washington State Patrol, Washington Sea Grant Program, U.S. Fish and Wildlife Service, the U.S. Environmental Protection Agency, and a person representing federally recognized Indian tribes in the state. The representative from the Department of Fish and Wildlife serves as chair of the committee. The chair may invite the participation of other interests on an ad hoc or continuing basis if it would assist the purposes of the committee.

The committee is assigned several responsibilities to be accomplished through the authority and cooperation of its member agencies. Funding requests for aquatic nuisance species activities will be submitted as individual budget requests by member agencies.

Responsibilities of the committee include: periodically reviewing the state aquatic nuisance species management plan; preparing a zebra mussel containment plan for quick detection and response in order to eradicate an introduction of zebra mussels; preparing a programmatic environmental impact statement for the zebra mussel containment plan and for other aquatic nuisance species as needed; designing a monitoring program for early detection of zebra mussel introductions into the state; and designing early response plans for other aquatic nuisance species as needed.

Other responsibilities of the committee are: designing an on-site inspection program of aquatic plant dealers; facilitating solutions for preventing the introduction of nonnative aquatic species from the ballast water of ships; designing a zebra mussel inspection program for long boats being hauled by commercial carriers into the state; designing a voluntary inspection program for small boats entering the state; designing an aquatic species education program; establishing a list of advisors and seeking recommendations regarding the committee's duties; advising member agencies on the use of funds available for aquatic nuisance species activities; and investigating and making recommendations regarding methods for better integrating the management of terrestrial and aquatic nuisance species.

The committee is required to report to the Legislature its recommendations for better accomplishing the eradication and control of aquatic nuisance species, as well as listing the committee's accomplishments, by December 1, 2001.

The Department of Ecology is directed to investigate the risk of introductions of nonnative aquatic species through the discharge of ballast water from ships and make recommendations for state actions to respond to the risk. The director of Ecology must seek the cooperation of maritime organizations for both the Puget Sound and Columbia River. The recommendations must be submitted to the Aquatic Nuisance Species Coordination Committee and appropriate legislative committees by December 1, 2000. If specific funding is not provided in the budget for this purpose by June 30, 1999, this authority is void.

The Department of Ecology is authorized to inspect vessels and sample ballast water to determine whether the vessel's ballast water poses a measurable risk of introducing nonnative aquatic species into the state. If specific funding is not provided in the budget for this purpose by June 30, 1999, this authority is void.

The Department of Agriculture may inspect licensed nurseries dealing in aquatic plants to detect aquatic nuisance species and prevent their introduction into Washington waters. The department may quarantine any infested aquatic plants, and require the nursery to

decontaminate or dispose of the plants to prevent their introduction into state waters. If specific funding is not provided in the budget for this purpose by June 30, 1999, this authority is void.

The Washington State Patrol is authorized to inspect boats entering the state at a port of entry to detect zebra mussels and prevent their introduction into state waters. If zebra mussels are detected, the State Patrol may prohibit further movement of the boat until the carrier agrees to an approved method of decontamination. The Department of Fish and Wildlife may adopt rules defining approved methods for decontaminating boats. If specific funding is not provided in the budget for this purpose by June 30, 1999, this authority is void.

The director of Fish and Wildlife may request the Fish and Wildlife Commission to designate an aquatic animal species that is nonnative to Washington as an aquatic nuisance species if it would be harmful to the state. The commission is authorized to designate aquatic nuisance species.

It is a class C felony to knowingly release, plant, or place live fish or wildlife in the state if the fish or wildlife have been classified as an aquatic nuisance species by the Fish and Wildlife Commission. A person is guilty of a gross misdemeanor if the person knowingly violates any commission rule regarding possession, holding, transporting, reporting, or any other action or restriction regarding a species classified as deleterious exotic wildlife or as an aquatic nuisance species. The Department of Fish and Wildlife may enforce provisions regarding unlawful release of fish, wildlife, shellfish, and plants through the administrative hearings process.

**Substitute Bill Compared to Original Bill:** The requirement that the offense was committed with knowledge was added to the elements necessary to commit the crime of unlawful use or possession of deleterious exotic wildlife or aquatic nuisance species.

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**Appropriation:** None.

**Fiscal Note:** Requested on February 15, 1999.

**Effective Date of Substitute Bill:** Ninety days after adjournment of session in which bill is passed. However, the bill is null and void unless funded in the budget.

**Testimony For:** (Original Bill) We need to reduce the risk of accidental introduction of nonnative species. This is not intended to address warm water fish or other species approved for introduction. There have been 39 nonnative species recently identified in Puget Sound. This is the biggest threat that currently exists to Puget Sound. Integration of terrestrial and aquatic species control is important. The change in penalties will result in better compliance. Ballast from vessels can create problems.

**Testimony Against:** (Original Bill) All penalties should be for knowing violations. There should be authority given to the Department of Fish and Wildlife to check the hull of marine vessels. The decontamination language needs refinement. It is not clear where the State Patrol's inspection authority extends. Many vessels already exchange ballast 200 miles out from the coast. This is not the tool to control farmed species of shellfish which are nonnative. More emphasis should be put on green crab eradication. This is not funded in the Governor's budget.

**Testified:** (Original Bill) (In support) Bruce Crawford, Department of Fish and Wildlife; Scott Smith, Aquatic Nuisance Species Coordinator; Robin Downey, Pacific Coast Oyster Growers Association; Bruce Wishart, People for Puget Sound; Tom Wessely, Department of Agriculture; and Lisa Lantz, State Noxious Weed Control Board..

(In support with concerns) Diane Cooper, Taylor Shellfish Farms; Randy Ray, Puget Sound Steamship Operators Association; John Woodring, N.W. Marine Trade Association; and Tom Hastings, PetsMart.

(Opposed) Jeff Fishel, Department of Ecology.