

# FINAL BILL REPORT

## E2SSB 5923

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### PARTIAL VETO

C 350 L 07

Synopsis as Enacted

**Brief Description:** Regarding aquatic invasive species enforcement and control.

**Sponsors:** Senate Committee on Ways & Means (originally sponsored by Senators Swecker, Jacobsen and Sheldon).

**Senate Committee on Natural Resources, Ocean & Recreation**

**Senate Committee on Ways & Means**

**House Committee on Agriculture & Natural Resources**

**Background:** Invasive species are generally considered to be animal or plant species that are thriving in a geographical area to which they are not native. Washington Department of Fish and Wildlife (DFW) has authority to manage aquatic nuisance species and is charged with tracking and proposing solutions to manage these species.

The Aquatic Invasive Species Prevention Account and the Aquatic Invasive Species Enforcement Account were created by the Legislature in 2005. One dollar fifty cents of each annual vessel registration fee is deposited into the Prevention Account and fifty cents of each annual vessel registration fee is deposited into the Enforcement Account.

Funds in the Prevention Account are appropriated to DFW to develop an Aquatic Invasive Species Prevention Program for recreational watercraft. Funds from the Enforcement Account are appropriated to the Washington State Patrol (WSP) to develop an aquatic invasive species enforcement program for recreational watercraft.

Under current law, all vessels involved in coastal traffic are required to exchange their ballast water at least 50 nautical miles offshore. Vessels are allowed to discharge non-exchanged ballast water under three circumstances: (1) when it is not safe to perform open ocean exchange, or when design limitations of the vessel or equipment malfunctions prevent exchange; (2) when a ship's ballast water originated in Washington and has not been mixed with water or sediments from outside designated areas; and (3) when an approved ballast water treatment system is utilized.

Beginning July 1, 2007, the discharge of improperly exchanged or treated ballast water into Washington waters is prohibited. A vessel that discharges improperly exchanged or treated ballast water without a valid exemption may result in a fine of up to \$5,000.

Currently, all vessels of 300 gross tons or more, except military vessels, must file a ballast water reporting form. Vessel operators that fail to comply with the reporting requirements may be subject to a \$500 fine per violation. Falsifying a ballast report may result in both a civil and criminal penalty.

**Summary:** Aquatic Invasive Species Enforcement and Prevention Program: Funds from the Aquatic Invasive Species Enforcement Account may also be appropriated to DFW to develop an aquatic invasive species enforcement program for recreational and commercial watercraft.

DFW is authorized to establish random check stations and require persons transporting recreational and commercial watercraft to stop at the check stations. Persons stopped at a check station who possess watercraft or equipment that is contaminated with an aquatic invasive species are exempted from certain criminal penalties if that person complies with all DFW directives for the proper decontamination of the watercraft or equipment. DFW will also provide inspection outside of check stations to persons requesting inspection and provide a receipt indicating the watercraft is not contaminated.

The new crime of unlawfully avoiding aquatic invasive species check stations is created. Persons who fail to obey check station signs, or who fail to stop and report at a check station if directed to do so by a uniformed fish and wildlife officer, are guilty of a gross misdemeanor.

DFW must post signs warning vessels of the threat of aquatic invasive species, the penalties associated with introduction of an invasive species, and proper contact information for obtaining a free vessel inspection. The signs must be posted at all ports of entry and at all boat launches owned or leased by DFW. DFW must also provide signs to all port districts, privately or publicly owned marinas, state parks, and other state agencies or political subdivisions that own or lease boat launches.

DFW is directed to develop a plan for treatment and immediate response to the introduction of prohibited aquatic invasive species into Washington waters. This plan will be reviewed under the State Environmental Policy Act.

Ballast Water Management Program: The Ballast Water Work Group (work group) expiration date is repealed and the work group is codified.

The duties of the work group are changed to include: (1) working with Oregon to develop a consistent ballast water management program for the Columbia River; (2) providing assistance to DFW with the implementation of the ballast water management program and with various research and evaluations regarding the program; (3) working with the U.S. Coast Guard and Department of Ecology (DOE) to improve coordination and integration of vessel inspection procedures among agencies that board and inspect vessels; and (4) developing recommendations on the management of discharge of untreated or exchanged ballast water under the safety exemption and report back the Legislature.

DFW, in conjunction with the work group, is directed to adopt implementation time lines and standards for the discharge of ballast water into the waters of the state. The standards are intended to ensure that the discharge of ballast water poses minimal risk of introducing nonindigenous species.

The safety exemption is modified to allow discharge of untreated or unexchanged ballast water into Washington waters when weather conditions, vessel limitations, equipment failure, or other extraordinary conditions make ballast water exchange or treatment a threat to the safety of the vessel, passengers, or crew. Persons claiming a safety exemption must file documentation as required by DFW and pay a fee not to exceed \$5,000.

Representatives from the cruise ship industry, the Department of Natural Resources, and a representative from DOE are added to the work group.

DFW is authorized to develop a fee schedule for fees collected under the safety exemption and may also set a graduated penalty schedule for unauthorized discharge and violation of reporting requirements under the ballast water management program.

The Ballast Water Management Account (Ballast Account) is created for the collection of appropriations, gifts, grants, donations, penalties and mitigation fees. Funds deposited into the Ballast Account must be appropriated by the Legislature and may only be used to support the Ballast Water Management Program.

DFW is authorized to issue a special operating authorization for passenger vessels conducting or assisting in research and testing activities to determine the presence of invasive species in ballast water. The testing and research will be reviewed by the work group and the findings will be reported to the Legislature.

**Votes on Final Passage:**

Senate	49	0	
House	94	0	(House amended)
Senate	49	0	(Senate concurred)

**Effective:** July 22, 2007

**Partial Veto Summary:** The Governor vetoed the section which permanently established the Ballast Water Work Group and all of the duties assigned to the work group.