
SUBSTITUTE SENATE BILL 6040

State of Washington

63rd Legislature

2014 Regular Session

By Senate Natural Resources & Parks (originally sponsored by Senators Honeyford, Hargrove, Pearson, Ranker, Parlette, and Sheldon; by request of Department of Fish and Wildlife)

READ FIRST TIME 02/05/14.

1 AN ACT Relating to invasive species; amending RCW 77.15.160,
2 77.12.020, 77.15.080, 77.15.290, 43.06.010, 43.43.400, 10.31.100,
3 77.15.360, and 82.49.030; reenacting and amending RCW 77.08.010; adding
4 new sections to chapter 77.15 RCW; adding a new chapter to Title 77
5 RCW; creating a new section; repealing RCW 77.12.875, 77.12.878,
6 77.12.879, 77.12.882, 77.15.253, 77.15.293, 77.60.110, and 77.60.120;
7 prescribing penalties; and making appropriations.

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

9 **PART 1**

10 **INVASIVE SPECIES--MANAGEMENT**

11 NEW SECTION. **Sec. 101.** The legislature finds that:

12 (1) The state's fish, wildlife, and habitat are exceptionally
13 valuable environmental resources for the state's citizens.

14 (2) The state's fish, wildlife, and habitat also provide
15 exceptionally valuable economic, cultural, and recreational resources.
16 These include hydroelectric power, agriculture, forests, water
17 supplies, commercial and recreational fisheries, aquaculture, and
18 public access to outdoor recreational opportunities.

1 (3) Invasive species pose a grave threat to these environmental and
2 economic resources, especially to salmon recovery and state and
3 federally listed threatened and endangered species. Because of the
4 significant harm invasive species can cause, invasive species
5 constitute a public nuisance.

6 (4) If allowed to become established, invasive species can threaten
7 human health and cause environmental and economic disasters affecting
8 not only our state, but other states and nations.

9 (5) The risk of invasive species spreading into Washington
10 increases as travel and commerce grows in volume and efficiency.

11 (6) Prevention of invasive species is a cost-effective, successful,
12 and proven management strategy. Prevention is the state's highest
13 management priority with an emphasis on education and outreach,
14 inspections, and rapid response.

15 (7) The integrated management of invasive species through pathways
16 regulated by the department is critical to preventing the introduction
17 and spread of a broad range of such species, including plants,
18 diseases, and parasites.

19 (8) Washington's citizens must work together to protect the state
20 from invasive species.

21 (9) Public and private partnerships, cooperative agreements, and
22 compacts are important for preventing new arrivals and managing
23 existing populations of invasive species, and coordinating these
24 actions on local, state, national, and international levels.

25 (10) The department requires authority for this mission to
26 effectively counter the unpredictable nature of invasive species'
27 introductions and spread, enable the utilization of new advances in
28 invasive ecology science, and implement applicable techniques and
29 technology to address invasive species.

30 (11) An integrated management approach provides the best way for
31 the state to manage invasive species and includes opportunities for
32 creating an informed public, encouraging public involvement, and
33 striving for local, regional, national, and international cooperation
34 and consistency on management standards. An integrated management
35 approach also applies sound science to minimize the chance that
36 invasive species used for beneficial purposes will result in
37 environmental harm.

1 (12) This chapter provides authority for the department to
2 effectively address invasive species using an integrated management
3 approach.

4 (13) The department of fish and wildlife currently has sufficient
5 statutory authority to effectively address invasive species risks posed
6 through discharge of ballast water under chapter 77.120 RCW and by
7 private sector shellfish aquaculture operations regulated under chapter
8 77.115 RCW. The programs developed by the department under these
9 chapters embody the principles of prevention as the highest priority,
10 integrated management of pathways, public-private partnerships, clean
11 and drain principles, and rapid response capabilities.

12 NEW SECTION. **Sec. 102.** The definitions in this section apply
13 throughout this chapter unless the context clearly requires otherwise.

14 (1) "Aquatic conveyance" means transportable personal property
15 having the potential to move an aquatic invasive species from one
16 aquatic environment to another. Aquatic conveyances include but are
17 not limited to watercraft and associated equipment, float planes,
18 construction equipment, fish tanker trucks, hydroelectric and
19 irrigation equipment, personal fishing and hunting gear, and materials
20 used for aquatic habitat mitigation or restoration.

21 (2) "Aquatic invasive species" means an invasive species of the
22 animal kingdom with a life cycle that is at least partly dependent upon
23 fresh, brackish, or marine waters. Examples include nutria, waterfowl,
24 amphibians, fish, and shellfish.

25 (3) "Aquatic plant" means a native or nonnative emergent,
26 submersed, partially submersed, free-floating, or floating-leaved plant
27 species that is dependent upon fresh, brackish, or marine water
28 ecosystems and includes all stages of development and parts.

29 (4) "Certificate of inspection" means a department-approved
30 document that declares, to the extent technically or measurably
31 possible, that an aquatic conveyance does not carry or contain an
32 invasive species. Certification may be in the form of a decal, label,
33 rubber stamp imprint, tag, permit, locking seal, or written statement.

34 (5) "Clean and drain" means to remove the following from areas on
35 or within an aquatic conveyance to the extent technically and
36 measurably possible:

1 (a) Visible native and nonnative aquatic animals, plants, or other
2 organisms; and

3 (b) Raw water.

4 (6) "Commercial watercraft" means a management category of aquatic
5 conveyances:

6 (a) Required to have valid marine documentation as a vessel of the
7 United States or similar required documentation for a country other
8 than the United States; and

9 (b) Not subject to watercraft registration requirements under
10 chapter 88.02 RCW or ballast water requirements under chapter 77.120
11 RCW.

12 (7) "Cryptogenic species" means a species that scientists cannot
13 commonly agree are native or nonnative or are part of the animal
14 kingdom.

15 (8) "Decontaminate" means, to the extent technically and measurably
16 possible, the application of a treatment to kill, destroy, remove, or
17 otherwise eliminate all known or suspected invasive species carried on
18 or contained within an aquatic conveyance or structural property by use
19 of physical, chemical, or other methods. Decontamination treatments
20 may include drying an aquatic conveyance for a time sufficient to kill
21 aquatic invasive species through desiccation.

22 (9) "Detect" means the verification of invasive species' presence
23 as defined by the department.

24 (10) "Eradicate" means, to the extent technically and measurably
25 possible, to kill, destroy, remove, or otherwise eliminate an invasive
26 species from a water body or property using physical, chemical, or
27 other methods.

28 (11) "Infested site management" means management actions as
29 provided under section 109 of this act that may include long-term
30 actions to contain, control, or eradicate a prohibited species.

31 (12) "Introduce" means to intentionally or unintentionally release,
32 place, or allow the escape, dissemination, or establishment of an
33 invasive species on or into a water body or property as a result of
34 human activity or a failure to act.

35 (13) "Invasive species" means nonnative species of the animal
36 kingdom that are not naturally occurring in Washington for purposes of
37 breeding, resting, or foraging, and that pose an invasive risk of
38 harming or threatening the state's environmental, economic, or human

1 resources. Invasive species include all stages of species development
2 and body parts. They may also include genetically modified or
3 cryptogenic species.

4 (14) "Invasive species council" means the Washington invasive
5 species council established in RCW 79A.25.310 or a similar
6 collaborative state agency forum. The term includes the council and
7 all of its officers, employees, agents, and contractors.

8 (15) "Mandatory check station" means a location where a person
9 transporting an aquatic conveyance must stop and allow the conveyance
10 to be inspected for aquatic invasive species.

11 (16) "Possess" means to have authority over the use of an invasive
12 species or use of an aquatic conveyance that may carry or contain an
13 invasive species. For the purposes of this subsection, "authority
14 over" includes the ability to intentionally or unintentionally hold,
15 import, export, transport, purchase, sell, barter, distribute, or
16 propagate an invasive species.

17 (17) "Prohibited species" means a classification category of
18 nonnative species as provided in section 104 of this act.

19 (18) "Property" means both real and personal property.

20 (19) "Quarantine declaration" means a management action as provided
21 under section 107 of this act involving the prohibition or conditioning
22 of the movement of aquatic conveyances and waters from a place or an
23 area that is likely to contain a prohibited species.

24 (20) "Rapid response" means expedited management actions as
25 provided under section 108 of this act triggered when invasive species
26 are detected, for the time-sensitive purpose of containing or
27 eradicating the species before it spreads or becomes further
28 established.

29 (21) "Raw water" means water from a water body and held on or
30 within property. "Raw water" does not include water from precipitation
31 that is captured in a conveyance, structure, or depression that is not
32 otherwise intended to function as a water body, or water from a potable
33 water supply system, unless the water contains visible aquatic
34 organisms.

35 (22) "Regulated species" means a classification category of
36 nonnative species as provided in section 104 of this act.

37 (23) "Registered watercraft" means a management category of aquatic

1 conveyances required to register as vessels under RCW 88.02.550 or
2 similar requirements for a state other than Washington or a country
3 other than the United States.

4 (24) "Seaplane" means a management category of aquatic conveyances
5 capable of landing on or taking off from water and required to register
6 as an aircraft under RCW 47.68.250 or similar registration in a state
7 other than Washington or a country other than the United States.

8 (25) "Small watercraft" means a management category of aquatic
9 conveyances:

10 (a) Including inflatable and hard-shell watercraft used or capable
11 of being used as a means of transportation on the water, such as
12 kayaks, canoes, sailboats, and rafts that:

13 (i) Do not meet watercraft registration requirements under chapter
14 88.02 RCW; and

15 (ii) Are ten feet or more in length with or without mechanical
16 propulsion or less than ten feet in length and fitted with mechanical
17 propulsion.

18 (b) Excluding nonmotorized aquatic conveyances of any size not
19 designed or modified to be used as a means of transportation on the
20 water, such as inflatable air mattresses and tubes, beach and water
21 toys, surf boards, and paddle boards.

22 (26) "Water body" means an area that carries or contains a
23 collection of water, regardless of whether the feature carrying or
24 containing the water is natural or nonnatural. Examples include
25 basins, bays, coves, streams, rivers, springs, lakes, wetlands,
26 reservoirs, ponds, tanks, irrigation canals, and ditches.

27 NEW SECTION. **Sec. 103.** (1) The department is the lead agency for
28 managing invasive species of the animal kingdom statewide. This lead
29 responsibility excludes pests, domesticated animals, or livestock
30 managed by the department of agriculture under Titles 15, 16, and 17
31 RCW, forest invasive insect and disease species managed by the
32 department of natural resources under Title 76 RCW, and mosquito and
33 algae control and shellfish sanitation managed by the department of
34 health under Titles 69, 70, and 90 RCW.

35 (2) Subject to the availability of funding for these specific
36 purposes, the department may:

1 (a) Develop and implement integrated invasive species management
2 actions and programs authorized by this chapter, including rapid
3 response, early detection and monitoring, prevention, containment,
4 control, eradication, and enforcement;

5 (b) Establish and maintain an invasive species outreach and
6 education program, in coordination with the Washington invasive species
7 council, that covers public, commercial, and professional pathways and
8 interests;

9 (c) Align management classifications, standards, and enforcement
10 provisions by rule with regional, national, and international standards
11 and enforcement provisions;

12 (d) Manage invasive species to support the preservation of native
13 species, salmon recovery, and the overall protection of threatened or
14 endangered species;

15 (e) Participate in local, state, regional, national, and
16 international efforts regarding invasive species to support the intent
17 of this chapter;

18 (f) Provide technical assistance or other support to tribes,
19 federal agencies, local governments, and private groups to promote an
20 informed public and assist the department in meeting the intent of this
21 chapter;

22 (g) Enter into partnerships, cooperative agreements, and state or
23 interstate compacts as necessary to accomplish the intent of this
24 chapter;

25 (h) Research and develop invasive species management tools,
26 including standard methods for decontaminating aquatic conveyances and
27 controlling or eradicating invasive species from water bodies and
28 properties;

29 (i) Post invasive species signs and information at port districts,
30 privately or publicly owned marinas, state parks, and all boat launches
31 owned or leased by state agencies or political subdivisions; and

32 (j) Adopt rules as needed to implement the provisions of this
33 chapter.

34 (3) The department may delegate selected and clearly identified
35 elements of its authorities and duties to another agency of the state
36 with appropriate expertise or administrative capacity upon cooperative
37 agreement with that agency. This delegation may include provisions of

1 funding for implementation of the delegations. The department retains
2 primary authority and responsibility for all requirements of this
3 chapter unless otherwise directed in this chapter.

4 (4) This chapter does not apply to the possession or introduction
5 of nonnative aquatic animal species by:

6 (a) Ballast water held or discharged by vessels regulated under
7 chapter 77.120 RCW; or

8 (b) Private sector aquaculture operations, transfers, or
9 conveyances regulated under chapter 77.115 RCW.

10 (5) This chapter does not preempt or replace other department
11 species classification systems or other management requirements under
12 this title. However, the department must streamline invasive species
13 requirements under this chapter into existing permits and cooperative
14 agreements as possible.

15 NEW SECTION. **Sec. 104.** (1) The department, in consultation with
16 the invasive species council, may classify or reclassify and list by
17 rule nonnative aquatic animal species as prohibited level 1, level 2,
18 or level 3, based on the degree of invasive risk, the type of
19 management action required, and resources available to conduct the
20 management action.

21 (a) Species classified as prohibited level 1 pose a high invasive
22 risk and are a priority for prevention and expedited rapid response
23 management actions.

24 (b) Species classified as prohibited level 2 pose a high invasive
25 risk and are a priority for long-term infested site management actions.

26 (c) Species classified as prohibited level 3 pose a moderate to
27 high invasive risk and may be appropriate for prevention, rapid
28 response, or other prohibited species management plan actions by the
29 department, another agency, a local government, tribes, or the public.

30 (2) The department, in consultation with the invasive species
31 council, may classify and list by rule regulated type A species. This
32 classification is used for nonnative aquatic animal species that pose
33 a low to moderate invasive risk that can be managed based on intended
34 use or geographic scope of introduction, have a beneficial use, and are
35 a priority for department-led or department-approved management of the
36 species' beneficial use and invasive risks.

1 (3) Nonnative aquatic animal species not classified as prohibited
2 level 1, level 2, or level 3 under subsection (1) of this section, or
3 as regulated type A species under subsection (2) of this section, are
4 automatically managed statewide as regulated type B species or
5 regulated type C species and do not require listing by rule.

6 (a) Species managed as regulated type B pose a low or unknown
7 invasive risk and are possessed for personal or commercial purposes,
8 such as for aquariums, live food markets, or as nondomesticated pets.

9 (b) Species managed as regulated type C pose a low or unknown
10 invasive risk and include all other species that do not meet the
11 criteria for management as a regulated type B invasive species.

12 (4) Classification of prohibited and regulated species:

13 (a) May be by individual species or larger taxonomic groups up to
14 the family name;

15 (b) Must align, as practical and appropriate, with regional and
16 national classification levels;

17 (c) Must be statewide unless otherwise designated by a water body,
18 property, or other geographic region or area; and

19 (d) May define general possession and introduction conditions
20 acceptable under department authorization, a permit, or as otherwise
21 provided by rule.

22 (5) Prior to or at the time of classifying species by rule as
23 prohibited or regulated under subsections (1) and (2) of this section,
24 the department, in consultation with the invasive species council, must
25 adopt rules establishing standards for determining invasive risk levels
26 and criteria for determining beneficial use that take into
27 consideration environmental impacts, and especially effects on the
28 preservation of native species, salmon recovery, and threatened or
29 endangered species.

30 NEW SECTION. **Sec. 105.** (1) Until the department adopts rules
31 classifying species pursuant to chapter 77.--- RCW (the new chapter
32 created in section 123 of this act), species and classifications
33 identified in this section are automatically managed as follows:

34 (a) Zebra mussels (*Dreissena polymorpha*), quagga mussels (*Dreissena*
35 *rostriformis bugensis*), European green crab (*Carcinus maenas*), and all
36 members of the genus *Eriocheir* (including Chinese mitten crab), all
37 members of the walking catfish family (*Clariidae*), all members of the

1 snakehead family (*Channidae*), silver carp (*Hypophthalmichthys*
2 *molitrix*), largescale silver carp (*Hypophthalmichthys harmandi*), black
3 carp (*Mylopharyngodon piceus*), and bighead carp (*Hypophthalmichthys*
4 *nobilis*) are prohibited level 1 species statewide;

5 (b) Prohibited aquatic animal species classified under WAC 220-12-
6 090(1), in effect on July 1, 2014, except those as noted in this
7 subsection are prohibited level 3 species statewide;

8 (c) Regulated aquatic animal species classified under WAC 220-12-
9 090(2), in effect on July 1, 2014, are regulated type A species
10 statewide; and

11 (d) Nonnative aquatic animal species classified as game fish under
12 WAC 232-12-019, in effect on July 1, 2014, or food fish under WAC 220-
13 12-010, in effect on July 1, 2014, are regulated type A species
14 statewide.

15 (2) The department, in consultation with the invasive species
16 council, may change these classifications by rule.

17 NEW SECTION. **Sec. 106.** (1) Prohibited level 1, level 2, and level
18 3 species may not be possessed, introduced on or into a water body or
19 property, or trafficked, without department authorization, a permit, or
20 as otherwise provided by rule.

21 (2) Regulated type A, type B, and type C species may not be
22 introduced on or into a water body or property without department
23 authorization, a permit, or as otherwise provided by rule.

24 (3) Regulated type B species, when being actively used for
25 commercial purposes, must be readily and clearly identified in writing
26 by taxonomic species name or subspecies name to distinguish the
27 subspecies from another prohibited species or a regulated type A
28 species. Nothing in this section precludes using additional
29 descriptive language or trade names to describe regulated type B
30 species as long as the labeling requirements of this section are met.

31 NEW SECTION. **Sec. 107.** (1) If the department determines it is
32 necessary to protect the environmental, economic, or human health
33 interests of the state from the threat of a prohibited level 1 or level
34 2 species, the department may declare a quarantine against a water
35 body, property, or region within the state. The department may

1 prohibit or condition the movement of aquatic conveyances and waters
2 from such a quarantined place or area that are likely to contain a
3 prohibited species.

4 (2) A quarantine declaration under this section may be implemented
5 separately or in conjunction with rapid response management actions
6 under section 108 of this act and infested site management actions
7 under section 109 of this act in a manner and for a duration necessary
8 to protect the interests of the state from the threat of a prohibited
9 level 1 or level 2 species. A quarantine declaration must include:

- 10 (a) The reasons for the action including the prohibited level 1 or
11 level 2 species triggering the quarantine;
- 12 (b) The boundaries of the area affected;
- 13 (c) The action timeline;
- 14 (d) Types of aquatic conveyances and waters affected by the
15 quarantine and any prohibition or conditions on the movement of those
16 aquatic conveyances and waters from the quarantine area; and
- 17 (e) Inspection and decontamination requirements for aquatic
18 conveyances.

19 NEW SECTION. **Sec. 108.** (1) The department may implement rapid
20 response management actions where a prohibited level 1 species is
21 detected in or on a water body or property. Rapid response management
22 actions may: Include expedited actions to contain, control, or
23 eradicate the prohibited species; and, if applicable, be implemented in
24 conjunction with a quarantine declaration. Rapid response management
25 actions must be terminated by the department when it determines that
26 the targeted prohibited level 1 species are:

- 27 (a) Eradicated;
- 28 (b) Contained or controlled without need for further management
29 actions;
- 30 (c) Reclassified for that water body; or
- 31 (d) Being managed under infested site management actions pursuant
32 to section 109 of this act.

33 (2) If a rapid response management action exceeds seven days, the
34 department may implement an incident command system for rapid response
35 management including scope, duration, and types of actions and to
36 support mutual assistance and cooperation between the department and
37 other affected state and federal agencies, tribes, local governments,

1 and private water body or property owners. The purpose of this system
2 is to coordinate a rapid, effective, and efficient response to contain,
3 control, and eradicate if feasible, a prohibited level 1 species.
4 Mutual assistance and coordination by other state agencies is
5 especially important to assist the department in expediting necessary
6 state and federal environmental permits.

7 (3) The department may enter into cooperative agreements with
8 national, regional, state, and local rapid response management action
9 partners to establish incident command system structures, secure or
10 prepare submission-ready environmental permits, and identify mutual
11 assistance commitments in preparation for potential future actions.

12 (4) The department may perform simulated rapid response exercises,
13 testing, or other training activities to prepare for future rapid
14 response management actions.

15 (5) In implementing rapid response management actions, the
16 department may enter upon property consistent with the process
17 established under section 120 of this act.

18 NEW SECTION. **Sec. 109.** (1) The department may implement infested
19 site management actions where a prohibited level 2 species is detected
20 in or on a water body or property. Infested site management actions
21 may: Include long-term actions to contain, control, or eradicate the
22 prohibited species; and, if applicable, be implemented in conjunction
23 with a quarantine declaration. Infested site management actions must
24 be terminated by the department when it determines that the targeted
25 prohibited level 2 species are:

- 26 (a) Eradicated;
- 27 (b) Contained or controlled without need for further management
28 actions; or
- 29 (c) Reclassified for that water body.

30 (2) The department must consult with affected state and federal
31 agencies, tribes, local governments, and private water body or property
32 owners prior to implementing infested site management actions. The
33 purpose of the consultation is to support mutual assistance and
34 cooperation in providing an effective and efficient response to
35 contain, control, and eradicate, if feasible, a prohibited level 2
36 species.

1 (3) The department may enter into cooperative agreements with
2 national, regional, state, and local infested site management action
3 partners to establish management responsibilities, secure or prepare
4 submission-ready environmental permits, and identify mutual assistance
5 commitments.

6 (4) In implementing infested site management actions, the
7 department may enter upon property consistent with the process
8 established under section 120 of this act.

9 NEW SECTION. **Sec. 110.** (1) To the extent possible, the
10 department's quarantine declarations under section 107 of this act,
11 rapid response management actions under section 108 of this act, and
12 infested site management actions under section 109 of this act must be
13 implemented in a manner best suited to contain, control, and eradicate
14 prohibited level 1 and level 2 species while protecting human safety,
15 minimizing adverse environmental impacts to a water body or property,
16 and minimizing adverse economic impacts to owners of an affected water
17 body or property.

18 (2) The department is the lead agency for quarantine declarations,
19 rapid response, and infested site management actions. Where the
20 infested water body is subject to tribal, federal, or other sovereign
21 jurisdiction, the department:

22 (a) Must consult with appropriate federal agencies, tribal
23 governments, other states, and Canadian government entities to develop
24 and implement coordinated management actions on affected water bodies
25 under shared jurisdiction;

26 (b) May assist in infested site management actions where these
27 actions may prevent the spread of prohibited species into state water
28 bodies; and

29 (c) May assist other states and Canadian government entities, in
30 the Columbia river basin, in management actions on affected water
31 bodies outside of the state where these actions may prevent the spread
32 of the species into state water bodies.

33 (3)(a) The department must provide notice of quarantine
34 declarations, rapid response, and infested site management actions to
35 owners of an affected water body or property. Notice may be provided
36 by any reasonable means, such as in person, by United States postal

1 service, by publication in a local newspaper, by electronic publication
2 including social media or postings on the department's public web site,
3 or by posting signs at the water body.

4 (b) The department must provide updates to owners of an affected
5 water body or property based on management action type as follows:

6 (i) Every seven days for a rapid response management action and, if
7 applicable, a quarantine declaration implemented in conjunction with a
8 rapid response management action;

9 (ii) Every six months for a separate quarantine declaration;

10 (iii) Annually for the duration of an infested site management
11 action and, if applicable, a quarantine declaration implemented in
12 conjunction with an infested site management action; and

13 (iv) A final update at the conclusion of any management action.

14 (c) In addition to owners of an affected water body or property,
15 the department must provide notice of a quarantine declaration to
16 members of the public by any reasonable means for an area subject to a
17 quarantine declaration, such as by publication in a local newspaper, by
18 electronic publication including social media or postings on the
19 department's public web site, or by posting signs at the water body.
20 The department must provide updates at reasonable intervals and a final
21 update at the conclusion of the quarantine declaration.

22 (4) The department must publicly list those water bodies or
23 portions of water bodies in which a prohibited level 1 or level 2
24 species has been detected. The department may list those areas in
25 which a prohibited level 3 species has been detected.

26 (5) When posting signs at a water body or property where a
27 prohibited species has been detected, the department must consult with
28 owners of the affected water body or property regarding placement of
29 those signs.

30 NEW SECTION. **Sec. 111.** (1) If the director finds that there
31 exists an imminent danger of a prohibited level 1 or level 2 species
32 detection that seriously endangers or threatens the environment,
33 economy, human health, or well-being of the state of Washington, the
34 director must ask the governor to order, under RCW 43.06.010(14),
35 emergency measures to prevent or abate the prohibited species. The
36 director's findings must contain an evaluation of the effect of the
37 emergency measures on environmental factors such as fish listed under

1 the endangered species act, economic factors such as public and private
2 access, human health factors such as water quality, or well-being
3 factors such as cultural resources.

4 (2) If an emergency is declared pursuant to RCW 43.06.010(14), the
5 director may consult with the invasive species council to advise the
6 governor on emergency measures necessary under RCW 43.06.010(14) and
7 this section, and make subsequent recommendations to the governor. The
8 invasive species council must involve owners of the affected water body
9 or property, state and local governments, federal agencies, tribes,
10 public health interests, technical service providers, and environmental
11 organizations, as appropriate.

12 (3) Upon the governor's approval of emergency measures, the
13 director may implement these measures to prevent, contain, control, or
14 eradicate invasive species that are the subject of the emergency order,
15 notwithstanding the provisions of chapter 15.58 or 17.21 RCW or any
16 other statute. These measures, after evaluation of all other
17 alternatives, may include the surface and aerial application of
18 pesticides.

19 (4) The director must continually evaluate the effects of the
20 emergency measures and report these to the governor at intervals of not
21 less than ten days. The director must immediately advise the governor
22 if the director finds that the emergency no longer exists or if certain
23 emergency measures should be discontinued.

24 NEW SECTION. **Sec. 112.** (1) A person in possession of an aquatic
25 conveyance who enters Washington by road, air, or water is required to
26 have a certificate of inspection. A person must provide this
27 certificate of inspection upon request by a fish and wildlife officer
28 or ex officio fish and wildlife officer.

29 (2) The department must adopt rules to implement this section
30 including:

31 (a) Types of aquatic conveyances required to have a certificate of
32 inspection;

33 (b) Allowable certificate of inspection forms including passport
34 type systems and integration with existing similar permits;

35 (c) Situations when authorization can be obtained for transporting
36 an aquatic conveyance not meeting inspection requirements to a

1 specified location within the state where certificate of inspection
2 requirements can be provided; and

3 (d) Situations where aquatic conveyances are using shared boundary
4 waters of the state, such as portions of the Columbia river, lake
5 Osoyoos, and the Puget Sound.

6 NEW SECTION. **Sec. 113.** (1) A person in possession of an aquatic
7 conveyance must meet clean and drain requirements after the
8 conveyance's use in or on a water body or property. A certificate of
9 inspection is not needed to meet clean and drain requirements.

10 (2) A fish and wildlife officer or ex officio fish and wildlife
11 officer may order a person transporting an aquatic conveyance not
12 meeting clean and drain requirements to:

13 (a) Clean and drain the conveyance at the discovery site, if the
14 department determines there are sufficient resources available; or

15 (b) Transport the conveyance to a reasonably close location where
16 resources are sufficient to meet the clean and drain requirements.

17 (3) This section may be enforced immediately on the transportation
18 of aquatic plants by registered watercraft, small watercraft,
19 seaplanes, and commercial watercraft. The department must adopt rules
20 to implement all other aspects of clean and drain requirements,
21 including:

22 (a) Other types of aquatic conveyances subject to this requirement;

23 (b) When transport of an aquatic conveyance is authorized if clean
24 and drain services are not readily available at the last water body
25 used; and

26 (c) Exemptions to clean and drain requirements where the department
27 determines there is minimal risk of spreading invasive species.

28 NEW SECTION. **Sec. 114.** (1) The department may establish mandatory
29 check stations to inspect aquatic conveyances for clean and drain
30 requirements and aquatic invasive species. The check stations must be
31 operated by at least one fish and wildlife officer, an ex officio fish
32 and wildlife officer in coordination with the department, or
33 department-authorized representative, and must be plainly marked by
34 signs and operated in a safe manner.

35 (2) Aquatic conveyances required to stop at mandatory check
36 stations include registered watercraft, commercial watercraft, and

1 small watercraft. The department may establish rules governing other
2 types of aquatic conveyances that must stop at mandatory check
3 stations. The rules must provide sufficient guidance so that a person
4 transporting the aquatic conveyance readily understands that he or she
5 is required to stop.

6 (3) A person who encounters a mandatory check station while
7 transporting an aquatic conveyance must:

8 (a) Stop at the mandatory check station;

9 (b) Allow the aquatic conveyance to be inspected for clean and
10 drain requirements and aquatic invasive species;

11 (c) Follow clean and drain orders if clean and drain requirements
12 are not met pursuant to section 113 of this act; and

13 (d) Follow decontamination orders pursuant to section 115 of this
14 act if an aquatic invasive species is found.

15 (4) A person who complies with the department directives under this
16 section is exempt from criminal penalties under sections 205 and 206 of
17 this act, civil penalties under RCW 77.15.160(4), and civil forfeiture
18 under RCW 77.15.070, unless the person has a prior conviction for an
19 invasive species violation within the past five years.

20 NEW SECTION. **Sec. 115.** (1) Upon discovery of an aquatic
21 conveyance that carries or contains an aquatic invasive species without
22 department authorization, a permit, or as otherwise provided by rule,
23 a fish and wildlife officer or ex officio fish and wildlife officer may
24 issue a decontamination order:

25 (a) Requiring decontamination at the discovery site, if the
26 situation presents a low risk of aquatic invasive species introduction,
27 and sufficient department resources are available at the discovery
28 site;

29 (b) Prohibiting the launch of the aquatic conveyance in a water
30 body until decontamination is completed and certified, if the situation
31 presents a low risk of aquatic invasive species introduction, and
32 sufficient department resources are not available at the discovery
33 site;

34 (c) Requiring immediate transport of the conveyance to an approved
35 decontamination station, and prohibiting the launch of the conveyance
36 in a water body until decontamination is completed and certified, if

1 the situation presents a moderate risk of aquatic invasive species
2 introduction, and sufficient department resources are not available at
3 the discovery site; or

4 (d) Seizing and transporting the aquatic conveyance to an approved
5 decontamination station until decontamination is completed and
6 certified, if the situation presents a high risk of aquatic invasive
7 species introduction, and sufficient department resources are not
8 available at the discovery site.

9 (2) The person possessing the aquatic conveyance that is subject to
10 orders issued under subsection (1)(b) through (d) of this section must
11 bear any costs for seizure, transportation, or decontamination.

12 (3) Orders issued under subsection (1)(b) through (d) of this
13 section must be in writing and must include notice of the opportunity
14 for a hearing pursuant to section 116 of this act to determine the
15 validity of the orders.

16 (4) If a decontamination order is issued under subsection (1)(d) of
17 this section, the department may seize the aquatic conveyance for two
18 working days or a reasonable additional period of time thereafter as
19 needed to meet decontamination requirements. The decontamination
20 period must be based on factors including conveyance size and
21 complexity, type and number of aquatic invasive species present, and
22 decontamination station resource capacity.

23 (5) If an aquatic conveyance is subject to forfeiture under RCW
24 77.15.070, the timelines and other provisions under that section apply
25 to the seizure.

26 (6) Upon decontamination and issuing a certificate of inspection,
27 an aquatic conveyance must be released to the person in possession of
28 the aquatic conveyance at the time the decontamination order was
29 issued, or to the owner of the aquatic conveyance.

30 NEW SECTION. **Sec. 116.** (1) A person aggrieved or adversely
31 affected by a quarantine declaration under section 107 of this act, a
32 rapid response management action under section 108 of this act, an
33 infested site management action under section 109 of this act, or a
34 decontamination order under section 115 of this act may contest the
35 validity of the department's actions by requesting a hearing in writing
36 within twenty days of the department's actions.

1 (2) Hearings must be conducted pursuant to chapter 34.05 RCW and
2 the burden of demonstrating the invalidity of agency action is on the
3 party asserting invalidity. The hearing may be conducted by the
4 director or the director's designee and may occur telephonically.

5 (3) A hearing on a decontamination order is limited to the issues
6 of whether decontamination was necessary and the reasonableness of
7 costs assessed for any seizure, transportation, and decontamination.
8 If the person in possession of the aquatic conveyance that was
9 decontaminated prevails at the hearing, the person is entitled to
10 reimbursement by the department for any costs assessed by the
11 department or decontamination station operator for the seizure,
12 transportation, and decontamination. If the department prevails at the
13 hearing, the department is not responsible for and may not reimburse
14 any costs.

15 NEW SECTION. **Sec. 117.** (1) The department may operate aquatic
16 conveyance inspection and decontamination stations statewide for
17 voluntary use by the public or for mandatory use where directed by the
18 department to meet inspection and decontamination requirements of this
19 chapter. Decontamination stations can be part of or separate from
20 inspection stations. Inspection and decontamination stations are
21 separate from commercial vehicle weigh stations operated by the
22 Washington state patrol.

23 (2) Inspection station staff must inspect aquatic conveyances to
24 determine whether the conveyances carry or contain aquatic invasive
25 species. If an aquatic conveyance is free of aquatic invasive species,
26 then inspection station staff must issue a certificate of inspection.
27 A certificate of inspection is valid until the conveyance's next use in
28 a water body.

29 (3) If a conveyance carries or contains aquatic invasive species,
30 then inspection station staff must require the conveyance's
31 decontamination before issuing a certificate of inspection. The
32 certificate of inspection is valid until the conveyance's next use in
33 a water body.

34 (4) The department must identify, in a way that is readily
35 available to the public, the location and contact information for
36 inspection and decontamination stations.

1 (5) The department must adopt by rule standards for inspection and
2 decontamination that, where practical and appropriate, align with
3 regional, national, and international standards.

4 NEW SECTION. **Sec. 118.** (1) The department may authorize
5 representatives to operate its inspection and decontamination stations
6 and mandatory check stations. Department-authorized representatives
7 may be department volunteers, other law enforcement agencies, or
8 independent businesses.

9 (2) The department must adopt rules governing the types of services
10 that department-authorized representatives may perform under this
11 chapter.

12 (3) Department-authorized representatives must have official
13 identification, training, and administrative capacity to fulfill their
14 responsibilities under this section.

15 (4) Within two years of the effective date of this section, the
16 department must provide the legislature with recommendations for a fee
17 schedule that department-authorized representatives may charge users
18 whose aquatic conveyances receive inspection and decontamination
19 services.

20 NEW SECTION. **Sec. 119.** (1) The aquatic invasive species
21 prevention account is created in the state treasury. All receipts
22 directed to the account from RCW 82.49.030 and 88.02.640, as well as
23 legislative appropriations, gifts, donations, fees, and penalties for
24 aquatic invasive species management received under this chapter, must
25 be deposited into the account.

26 (2) Expenditures from the account may only be used to implement the
27 provisions of this chapter.

28 (3) Moneys in the account may be spent only after appropriation.

29 NEW SECTION. **Sec. 120.** (1) The department may enter upon a
30 property or water body at any reasonable time for the purpose of
31 administering this chapter, including inspecting and decontaminating
32 aquatic conveyances, collecting invasive species samples, implementing
33 rapid response management actions or infested site management actions,
34 and containing, controlling, or eradicating invasive species.

1 (2) Prior to entering the property or water body, the department
2 shall make a reasonable attempt to notify the owner of the property or
3 water body as to the purpose and need for the entry. Should the
4 department be denied access to any property or water body where access
5 is sought for the purposes set forth in this chapter, the department
6 may apply to any court of competent jurisdiction for a warrant
7 authorizing access to the property.

8 (3) Upon such an application, the court may issue the warrant for
9 the purposes requested where the court finds reasonable cause to
10 believe it is necessary to achieve the purposes of this chapter.

11 NEW SECTION. **Sec. 121.** (1) Funds from the watercraft excise tax
12 proceeds that are deposited into the aquatic invasive species
13 prevention account established under section 119 of this act and the
14 aquatic invasive species enforcement account established under RCW
15 43.43.400 may be used by the department to develop and implement an
16 aquatic invasive species local management grant program. The grant
17 program may expend up to two hundred fifty thousand dollars per fiscal
18 year as competitive grants to state agencies, cities, counties, tribes,
19 special purpose districts, academic institutions, and nonprofit groups
20 to:

21 (a) Manage prohibited level 1 or level 2 aquatic species at a local
22 level;

23 (b) Develop rapid response management cooperative agreements for
24 local water bodies;

25 (c) Develop or implement prohibited species management cooperative
26 agreements for local water bodies; and

27 (d) Conduct innovative applied research that directly supports on-
28 the-ground prevention, control, and eradication efforts.

29 (2) The department must give preference to projects that have
30 matching funds, provide in-kind services, or maintain or enhance
31 outdoor recreational opportunities.

32 NEW SECTION. **Sec. 122.** The provisions of this chapter must be
33 liberally construed to carry out the intent of the legislature.

34 NEW SECTION. **Sec. 123.** Sections 102 through 104, 106 through 119,

1 and 120 through 122 of this act constitute a new chapter in Title 77
2 RCW.

3 **PART 2**

4 **INVASIVE SPECIES--ENFORCEMENT**

5 NEW SECTION. **Sec. 201.** A new section is added to chapter 77.15
6 RCW to read as follows:

7 (1) Based upon reasonable suspicion that a person possesses an
8 aquatic conveyance that has not been cleaned and drained or carries or
9 contains aquatic invasive species in violation of this title, fish and
10 wildlife officers or ex officio fish and wildlife officers may
11 temporarily stop the person and inspect the aquatic conveyance for
12 compliance with the requirements of this title.

13 (2) Unless the context clearly requires otherwise, the definitions
14 in both RCW 77.08.010 and section 102 of this act apply throughout this
15 section.

16 NEW SECTION. **Sec. 202.** A new section is added to chapter 77.15
17 RCW to read as follows:

18 (1) Upon a showing of probable cause that there has been a
19 violation of an invasive species law of the state of Washington, or
20 upon a showing of probable cause to believe that evidence of such a
21 violation may be found at a place, a court must issue a search warrant
22 or arrest warrant. Fish and wildlife officers or ex officio fish and
23 wildlife officers may execute any such search or arrest warrant
24 reasonably necessary to carry out their duties under this title with
25 regard to an invasive species law and may seize invasive species or any
26 evidence of a crime and the fruits or instrumentalities of a crime as
27 provided by warrant. The court may have property opened or entered and
28 the contents examined.

29 (2) Seizure of property as evidence of a crime does not preclude
30 seizure of the property for forfeiture as authorized by law.

31 NEW SECTION. **Sec. 203.** A new section is added to chapter 77.15
32 RCW to read as follows:

33 (1) Upon a showing of probable cause that a water body or property
34 has an invasive species in or on it, and the owner refuses permission

1 to allow inspection of the water body or property, a court in the
2 county in which the water body or property is located may, upon the
3 request of the director or the director's designee, issue a warrant to
4 the director or the director's designee authorizing the taking of
5 specimens of invasive species, general inspection of the property or
6 water body, and the performance of containment, eradication, or control
7 work.

8 (2) Application for issuance, execution, and return of the warrant
9 authorized by this section must be in accordance with the applicable
10 rules of the superior courts or the district courts.

11 **Sec. 204.** RCW 77.15.160 and 2013 c 307 s 2 are each amended to
12 read as follows:

13 The following acts are infractions and must be cited and punished
14 as provided under chapter 7.84 RCW:

15 (1) Fishing and shellfishing infractions:

16 (a) Barbed hooks: Fishing for personal use with barbed hooks in
17 violation of any department rule.

18 (b) Catch recording: Failing to immediately record a catch of fish
19 or shellfish on a catch record card as required by RCW 77.32.430 or
20 department rule.

21 (c) Catch reporting: Failing to return a catch record card to the
22 department for other than Puget Sound Dungeness crab, as required by
23 department rule.

24 (d) Recreational fishing: Fishing for fish or shellfish and,
25 without yet possessing fish or shellfish, the person:

26 (i) Owns, but fails to have in the person's possession the license
27 or the catch record card required by chapter 77.32 RCW for such an
28 activity; or

29 (ii) Violates any department rule regarding seasons, closed areas,
30 closed times, or any other rule addressing the manner or method of
31 fishing for fish or shellfish. This subsection does not apply to use
32 of a net to take fish under RCW 77.15.580 or the unlawful use of
33 shellfish gear for personal use under RCW 77.15.382.

34 (e) Seaweed: Taking, possessing, or harvesting less than two times
35 the daily possession limit of seaweed:

36 (i) While owning, but not having in the person's possession, the
37 license required by chapter 77.32 RCW; or

1 (ii) In violation of any rule of the department or the department
2 of natural resources regarding seasons, closed areas, closed times, or
3 any other rule addressing the manner or method of taking, possessing,
4 or harvesting of seaweed.

5 (f) Unclassified fish or shellfish: Taking unclassified fish or
6 shellfish in violation of any department rule by killing, fishing,
7 taking, holding, possessing, or maliciously injuring or harming fish or
8 shellfish that is not classified as game fish, food fish, shellfish,
9 protected fish, or endangered fish.

10 (g) Wasting fish or shellfish: Killing, taking, or possessing fish
11 or shellfish having a value of less than two hundred fifty dollars and
12 allowing the fish or shellfish to be wasted.

13 (2) Hunting infractions:

14 (a) Eggs or nests: Maliciously, and without permit authorization,
15 destroying, taking, or harming the eggs or active nests of a wild bird
16 not classified as endangered or protected. For purposes of this
17 subsection, "active nests" means nests that contain eggs or fledglings.

18 (b) Unclassified wildlife: Taking unclassified wildlife in
19 violation of any department rule by killing, hunting, taking, holding,
20 possessing, or maliciously injuring or harming wildlife that is not
21 classified as big game, game animals, game birds, protected wildlife,
22 or endangered wildlife.

23 (c) Wasting wildlife: Killing, taking, or possessing wildlife that
24 is not classified as big game and has a value of less than two hundred
25 fifty dollars, and allowing the wildlife to be wasted.

26 (d) Wild animals: Hunting for wild animals not classified as big
27 game and, without yet possessing the wild animals, the person owns, but
28 fails to have in the person's possession, all licenses, tags, or
29 permits required by this title.

30 (e) Wild birds: Hunting for and, without yet possessing a wild
31 bird or birds, the person:

32 (i) Owns, but fails to have in the person's possession, all
33 licenses, tags, stamps, and permits required under this title; or

34 (ii) Violates any department rule regarding seasons, closed areas,
35 closed times, or any other rule addressing the manner or method of
36 hunting wild birds.

37 (3) Trapping, taxidermy, fur dealing, and wildlife meat cutting
38 infractions:

1 (a) Recordkeeping and reporting: If a person is a taxidermist, fur
2 dealer, or wildlife meat cutter who is processing, holding, or storing
3 wildlife for commercial purposes, failing to:

4 (i) Maintain records as required by department rule; or

5 (ii) Report information from these records as required by
6 department rule.

7 (b) Trapper's report: Failing to report trapping activity as
8 required by department rule.

9 ~~(4) ((Aquatic invasive species infraction: Entering Washington by
10 road and transporting a recreational or commercial watercraft that has
11 been used outside of Washington without meeting documentation
12 requirements as provided under RCW 77.12.879.))~~ (a) Invasive species
13 management infractions:

14 (i) Out-of-state certification: Entering Washington in possession
15 of an aquatic conveyance that does not meet certificate of inspection
16 requirements as provided under section 112 of this act;

17 (ii) Clean and drain requirements: Possessing an aquatic
18 conveyance that does not meet clean and drain requirements under
19 section 113 of this act;

20 (iii) Clean and drain orders: Possessing an aquatic conveyance and
21 failing to obey a clean and drain order under section 113 or 114 of
22 this act; and

23 (iv) Transporting aquatic plants: Transporting aquatic plants on
24 any state or public road, including forest roads. However, this
25 subsection does not apply to plants that are:

26 (A) Being transported to the department or to another destination
27 designated by the director, in a manner designated by the department,
28 for purposes of identifying a species or reporting the presence of a
29 species;

30 (B) Legally obtained for aquarium use, wetland or lakeshore
31 restoration, or ornamental purposes;

32 (C) Located within or on a commercial aquatic plant harvester that
33 is being transported to a suitable location to remove aquatic plants;

34 (D) Being transported in a manner that prevents their unintentional
35 dispersal, to a suitable location for disposal, research, or
36 educational purposes; or

37 (E) Being transported in such a way as the commission may otherwise
38 prescribe.

1 (b) Unless the context clearly requires otherwise, the definitions
2 in both RCW 77.08.010 and section 102 of this act apply throughout this
3 subsection (4).

4 (5) Other infractions:

5 (a) Contests: Conducting, holding, or sponsoring a hunting
6 contest, a fishing contest involving game fish, or a competitive field
7 trial using live wildlife.

8 (b) Other rules: Violating any other department rule that is
9 designated by rule as an infraction.

10 (c) Posting signs: Posting signs preventing hunting or fishing on
11 any land not owned or leased by the person doing the posting, or
12 without the permission of the person who owns, leases, or controls the
13 land posted.

14 (d) Scientific permits: Using a scientific permit issued by the
15 director for fish, shellfish, or wildlife, but not including big game
16 or big game parts, and the person:

17 (i) Violates any terms or conditions of the scientific permit; or

18 (ii) Violates any department rule applicable to the issuance or use
19 of scientific permits.

20 ~~((e) Transporting aquatic plants: Transporting aquatic plants on~~
21 ~~any state or public road, including forest roads. However:~~

22 ~~(i) This subsection does not apply to plants that are:~~

23 ~~(A) Being transported to the department or to another destination~~
24 ~~designated by the director, in a manner designated by the department,~~
25 ~~for purposes of identifying a species or reporting the presence of a~~
26 ~~species;~~

27 ~~(B) Legally obtained for aquarium use, wetland or lakeshore~~
28 ~~restoration, or ornamental purposes;~~

29 ~~(C) Located within or on a commercial aquatic plant harvester that~~
30 ~~is being transported to a suitable location to remove aquatic plants;~~

31 ~~(D) Being transported in a manner that prevents their unintentional~~
32 ~~dispersal, to a suitable location for disposal, research, or~~
33 ~~educational purposes; or~~

34 ~~(E) Being transported in such a way as the commission may otherwise~~
35 ~~prescribe; and~~

36 ~~(ii) This subsection does not apply to a person who:~~

37 ~~(A) Is stopped at an aquatic invasive species check station and~~
38 ~~possesses a recreational or commercial watercraft that is contaminated~~

1 ~~with an aquatic invasive plant species if that person complies with all~~
2 ~~department directives for the proper decontamination of the watercraft~~
3 ~~and equipment; or~~

4 ~~(B) Has voluntarily submitted a recreational or commercial~~
5 ~~watercraft for inspection by the department or its designee and has~~
6 ~~received a receipt verifying that the watercraft has not been~~
7 ~~contaminated since its last use.)~~

8 NEW SECTION. **Sec. 205.** A new section is added to chapter 77.15
9 RCW to read as follows:

10 (1) A person is guilty of unlawful use of invasive species in the
11 second degree if the person:

12 (a) Fails to stop at a mandatory check station or to return to the
13 mandatory check station for inspection if directed to do so by a fish
14 and wildlife officer or ex officio fish and wildlife officer;

15 (b) Fails to allow an aquatic conveyance stopped at a mandatory
16 check station to be inspected for clean and drain requirements or
17 aquatic invasive species;

18 (c) Fails to comply with a decontamination order;

19 (d) Possesses, except in the case of trafficking, a prohibited
20 level 1 or level 2 species without department authorization, a permit,
21 or as otherwise provided by rule;

22 (e) Possesses, introduces on or into a water body or property, or
23 traffics in a prohibited level 3 species without department
24 authorization, a permit, or as otherwise provided by rule;

25 (f) Introduces on or into a water body or property a regulated type
26 A, type B, or type C species without department authorization, a
27 permit, or as otherwise provided by rule;

28 (g) Fails to readily and clearly identify in writing by taxonomic
29 species name or subspecies name a regulated type B species used for
30 commercial purposes; or

31 (h) Knowingly violates a quarantine declaration under section 107
32 of this act.

33 (2) A violation of subsection (1) of this section is a gross
34 misdemeanor. In addition to criminal penalties, a court may order the
35 person to pay all costs in capturing, killing, or controlling the
36 invasive species, including its progeny. This subsection does not

1 affect the authority of the department to bring a separate civil action
2 to recover habitat restoration costs necessitated by the person's
3 unlawful use of invasive species.

4 (3) This section does not apply to:

5 (a) A person who complies with the department directives pursuant
6 to section 114 of this act for mandatory check stations. Such a person
7 is exempt from criminal penalties under this section or section 206 of
8 this act, and forfeiture under this chapter, unless the person has a
9 prior conviction under those sections within the past five years;

10 (b) A person who possesses an aquatic invasive species, if the
11 person is in the process of:

12 (i) Removing it from the aquatic conveyance in a manner specified
13 by the department; or

14 (ii) Releasing it if caught while fishing and immediately returning
15 it to the water body from which it came;

16 (c) Possessing or introducing nonnative aquatic animal species by
17 ballast water held or discharged by vessels regulated under chapter
18 77.120 RCW; or

19 (d) Possessing or introducing nonnative aquatic animal species
20 through private sector shellfish aquaculture operations, transfers, or
21 conveyances regulated under chapter 77.115 RCW.

22 (4) Unless the context clearly requires otherwise, the definitions
23 in both RCW 77.08.010 and section 102 of this act apply throughout this
24 section.

25 NEW SECTION. **Sec. 206.** A new section is added to chapter 77.15
26 RCW to read as follows:

27 (1) A person is guilty of unlawful use of invasive species in the
28 first degree if the person:

29 (a) Traffics or introduces on or into a water body or property a
30 prohibited level 1 or level 2 species without department authorization,
31 a permit, or as otherwise provided by rule; or

32 (b) Commits a subsequent violation of unlawful use of invasive
33 species in the second degree within five years of the date of a prior
34 conviction under section 205 of this act.

35 (2) A violation of this section is a class C felony. In addition
36 to criminal penalties, a court may order the person to pay all costs in
37 managing the invasive species, including the species' progeny. This

1 subsection does not affect the authority of the department to bring a
2 separate civil action to recover habitat restoration costs necessitated
3 by the person's unlawful use of invasive species.

4 (3) This section does not apply to:

5 (a) A person who complies with department directives pursuant to
6 section 114 of this act for mandatory check stations, and who is exempt
7 from criminal penalties under this section and forfeiture under this
8 chapter, unless the person has a prior conviction under this section or
9 section 205 of this act within the past five years; or

10 (b) A person who possesses an aquatic invasive species, if the
11 person is in the process of:

12 (i) Removing it from the aquatic conveyance in a manner specified
13 by the department; or

14 (ii) Releasing it if caught while fishing and is immediately
15 returning it to the water body from which it came.

16 (4) Unless the context clearly requires otherwise, the definitions
17 in both RCW 77.08.010 and section 102 of this act apply throughout this
18 section.

19 PART 3

20 INVASIVE SPECIES--OTHER PROVISIONS

21 **Sec. 301.** RCW 77.08.010 and 2012 c 176 s 4 are each reenacted and
22 amended to read as follows:

23 The definitions in this section apply throughout this title or
24 rules adopted under this title unless the context clearly requires
25 otherwise.

26 (1) "Anadromous game fish buyer" means a person who purchases or
27 sells steelhead trout and other anadromous game fish harvested by
28 Indian fishers lawfully exercising fishing rights reserved by federal
29 statute, treaty, or executive order, under conditions prescribed by
30 rule of the director.

31 (2) "Angling gear" means a line attached to a rod and reel capable
32 of being held in hand while landing the fish or a hand-held line
33 operated without rod or reel.

34 (3) (~~"Aquatic invasive species" means any invasive, prohibited,~~
35 ~~regulated, unregulated, or unlisted aquatic animal or plant species as~~

1 ~~defined under subsections (4), (34), (49), (53), (70), and (71) of this~~
2 ~~section, aquatic noxious weeds as defined under RCW 17.26.020(5)(c),~~
3 ~~and aquatic nuisance species as defined under RCW 77.60.130(1).~~

4 ~~(4) "Aquatic plant species" means an emergent, submersed, partially~~
5 ~~submersed, free floating, or floating leaving plant species that grows~~
6 ~~in or near a body of water or wetland.~~

7 ~~(5))~~ "Bag limit" means the maximum number of game animals, game
8 birds, or game fish which may be taken, caught, killed, or possessed by
9 a person, as specified by rule of the commission for a particular
10 period of time, or as to size, sex, or species.

11 ~~((6))~~ (4) "Building" means a private domicile, garage, barn, or
12 public or commercial building.

13 ~~((7))~~ (5) "Closed area" means a place where the hunting of some
14 or all species of wild animals or wild birds is prohibited.

15 ~~((8))~~ (6) "Closed season" means all times, manners of taking, and
16 places or waters other than those established by rule of the commission
17 as an open season. "Closed season" also means all hunting, fishing,
18 taking, or possession of game animals, game birds, game fish, food
19 fish, or shellfish that do not conform to the special restrictions or
20 physical descriptions established by rule of the commission as an open
21 season or that have not otherwise been deemed legal to hunt, fish,
22 take, harvest, or possess by rule of the commission as an open season.

23 ~~((9))~~ (7) "Closed waters" means all or part of a lake, river,
24 stream, or other body of water, where fishing or harvesting is
25 prohibited.

26 ~~((10))~~ (8) "Commercial" means related to or connected with
27 buying, selling, or bartering.

28 ~~((11))~~ (9) "Commission" means the state fish and wildlife
29 commission.

30 ~~((12))~~ (10) "Concurrent waters of the Columbia river" means those
31 waters of the Columbia river that coincide with the Washington-Oregon
32 state boundary.

33 ~~((13))~~ (11) "Contraband" means any property that is unlawful to
34 produce or possess.

35 ~~((14))~~ (12) "Deleterious exotic wildlife" means species of the
36 animal kingdom not native to Washington and designated as dangerous to
37 the environment or wildlife of the state.

1 ~~((+15+))~~ (13) "Department" means the department of fish and
2 wildlife.

3 ~~((+16+))~~ (14) "Director" means the director of fish and wildlife.

4 ~~((+17+))~~ (15) "Endangered species" means wildlife designated by the
5 commission as seriously threatened with extinction.

6 ~~((+18+))~~ (16) "Ex officio fish and wildlife officer" means:
7 (a) A commissioned officer of a municipal, county, or state agency
8 having as its primary function the enforcement of criminal laws in
9 general, while the officer is acting in the respective jurisdiction of
10 that agency;

11 (b) An officer or special agent commissioned by one of the
12 following: The national marine fisheries service; the Washington state
13 parks and recreation commission; the United States fish and wildlife
14 service; the Washington state department of natural resources; the
15 United States forest service; or the United States parks service, if
16 the agent or officer is in the respective jurisdiction of the primary
17 commissioning agency and is acting under a mutual law enforcement
18 assistance agreement between the department and the primary
19 commissioning agency;

20 (c) A commissioned fish and wildlife peace officer from another
21 state who meets the training standards set by the Washington state
22 criminal justice training commission pursuant to RCW 10.93.090,
23 43.101.080, and 43.101.200, and who is acting under a mutual law
24 enforcement assistance agreement between the department and the primary
25 commissioning agency; or

26 (d) A Washington state tribal police officer who successfully
27 completes the requirements set forth under RCW 43.101.157, is employed
28 by a tribal nation that has complied with RCW 10.92.020(2) (a) and (b),
29 and is acting under a mutual law enforcement assistance agreement
30 between the department and the tribal government.

31 ~~((+19+))~~ (17) "Fish" includes all species classified as game fish
32 or food fish by statute or rule, as well as all fin fish not currently
33 classified as food fish or game fish if such species exist in state
34 waters. The term "fish" includes all stages of development and the
35 bodily parts of fish species.

36 ~~((+20+))~~ (18) "Fish and wildlife officer" means a person appointed
37 and commissioned by the director, with authority to enforce this title
38 and rules adopted pursuant to this title, and other statutes as

1 prescribed by the legislature. Fish and wildlife officer includes a
2 person commissioned before June 11, 1998, as a wildlife agent or a
3 fisheries patrol officer.

4 ~~((+21))~~ (19) "Fish broker" means a person whose business it is to
5 bring a seller of fish and shellfish and a purchaser of those fish and
6 shellfish together.

7 ~~((+22))~~ (20) "Fish buyer" means a person engaged by a wholesale
8 fish dealer to purchase food fish or shellfish from a licensed
9 commercial fisher.

10 ~~((+23))~~ (21) "Fishery" means the taking of one or more particular
11 species of fish or shellfish with particular gear in a particular
12 geographical area.

13 ~~((+24))~~ (22) "Food, food waste, or other substance" includes human
14 and pet food or other waste or garbage that could attract large wild
15 carnivores.

16 ~~((+25))~~ (23) "Freshwater" means all waters not defined as
17 saltwater including, but not limited to, rivers upstream of the river
18 mouth, lakes, ponds, and reservoirs.

19 ~~((+26))~~ (24) "Fur-bearing animals" means game animals that shall
20 not be trapped except as authorized by the commission.

21 ~~((+27))~~ (25) "Fur dealer" means a person who purchases, receives,
22 or resells raw furs for commercial purposes.

23 ~~((+28))~~ (26) "Game animals" means wild animals that shall not be
24 hunted except as authorized by the commission.

25 ~~((+29))~~ (27) "Game birds" means wild birds that shall not be
26 hunted except as authorized by the commission.

27 ~~((+30))~~ (28) "Game farm" means property on which wildlife is held,
28 confined, propagated, hatched, fed, or otherwise raised for commercial
29 purposes, trade, or gift. The term "game farm" does not include
30 publicly owned facilities.

31 ~~((+31))~~ (29) "Game reserve" means a closed area where hunting for
32 all wild animals and wild birds is prohibited.

33 ~~((+32))~~ (30) "Illegal items" means those items unlawful to be
34 possessed.

35 ~~((+33))~~ (31)(a) "Intentionally feed, attempt to feed, or attract"
36 means to purposefully or knowingly provide, leave, or place in, on, or
37 about any land or building any food, food waste, or other substance

1 that attracts or could attract large wild carnivores to that land or
2 building.

3 (b) "Intentionally feed, attempt to feed, or attract" does not
4 include keeping food, food waste, or other substance in an enclosed
5 garbage receptacle or other enclosed container unless specifically
6 directed by a fish and wildlife officer or animal control authority to
7 secure the receptacle or container in another manner.

8 ~~((34) "Invasive species" means a plant species or a nonnative
9 animal species that either:~~

10 ~~(a) Causes or may cause displacement of, or otherwise threatens,
11 native species in their natural communities;~~

12 ~~(b) Threatens or may threaten natural resources or their use in the
13 state;~~

14 ~~(c) Causes or may cause economic damage to commercial or
15 recreational activities that are dependent upon state waters; or~~

16 ~~(d) Threatens or harms human health.~~

17 ~~(35))~~ (32) "Large wild carnivore" includes wild bear, cougar, and
18 wolf.

19 ~~((36))~~ (33) "License year" means the period of time for which a
20 recreational license is valid. The license year begins April 1st, and
21 ends March 31st.

22 ~~((37))~~ (34) "Limited-entry license" means a license subject to a
23 license limitation program established in chapter 77.70 RCW.

24 ~~((38))~~ (35) "Money" means all currency, script, personal checks,
25 money orders, or other negotiable instruments.

26 ~~((39))~~ (36) "Natural person" means a human being.

27 ~~((40))~~ (37)(a) "Negligently feed, attempt to feed, or attract"
28 means to provide, leave, or place in, on, or about any land or building
29 any food, food waste, or other substance that attracts or could attract
30 large wild carnivores to that land or building, without the awareness
31 that a reasonable person in the same situation would have with regard
32 to the likelihood that the food, food waste, or other substance could
33 attract large wild carnivores to the land or building.

34 (b) "Negligently feed, attempt to feed, or attract" does not
35 include keeping food, food waste, or other substance in an enclosed
36 garbage receptacle or other enclosed container unless specifically
37 directed by a fish and wildlife officer or animal control authority to
38 secure the receptacle or container in another manner.

1 ((+41+)) (38) "Nonresident" means a person who has not fulfilled
2 the qualifications of a resident.

3 ((+42+)) (39) "Offshore waters" means marine waters of the Pacific
4 Ocean outside the territorial boundaries of the state, including the
5 marine waters of other states and countries.

6 ((+43+)) (40) "Open season" means those times, manners of taking,
7 and places or waters established by rule of the commission for the
8 lawful hunting, fishing, taking, or possession of game animals, game
9 birds, game fish, food fish, or shellfish that conform to the special
10 restrictions or physical descriptions established by rule of the
11 commission or that have otherwise been deemed legal to hunt, fish,
12 take, harvest, or possess by rule of the commission. "Open season"
13 includes the first and last days of the established time.

14 ((+44+)) (41) "Owner" means the person in whom is vested the
15 ownership dominion, or title of the property.

16 ((+45+)) (42) "Person" means and includes an individual; a
17 corporation; a public or private entity or organization; a local,
18 state, or federal agency; all business organizations, including
19 corporations and partnerships; or a group of two or more individuals
20 acting with a common purpose whether acting in an individual,
21 representative, or official capacity.

22 ((+46+)) (43) "Personal property" or "property" includes both
23 corporeal and incorporeal personal property and includes, among other
24 property, contraband and money.

25 ((+47+)) (44) "Personal use" means for the private use of the
26 individual taking the fish or shellfish and not for sale or barter.

27 ((+48+)) (45) "Predatory birds" means wild birds that may be hunted
28 throughout the year as authorized by the commission.

29 ~~((+49+)) "Prohibited aquatic animal species" means an invasive~~
30 ~~species of the animal kingdom that has been classified as a prohibited~~
31 ~~aquatic animal species by the commission.~~

32 (+50+)) (46) "Protected wildlife" means wildlife designated by the
33 commission that shall not be hunted or fished.

34 ((+51+)) (47) "Raffle" means an activity in which tickets bearing
35 an individual number are sold for not more than twenty-five dollars
36 each and in which a permit or permits are awarded to hunt or for access
37 to hunt big game animals or wild turkeys on the basis of a drawing from
38 the tickets by the person or persons conducting the raffle.

1 ~~((52)) "Recreational and commercial watercraft" includes the boat,~~
2 ~~as well as equipment used to transport the boat, and any auxiliary~~
3 ~~equipment such as attached or detached outboard motors.~~

4 ~~(53) "Regulated aquatic animal species" means a potentially~~
5 ~~invasive species of the animal kingdom that has been classified as a~~
6 ~~regulated aquatic animal species by the commission.~~

7 ~~(+54))~~ (48) "Resident" has the same meaning as defined in RCW
8 77.08.075.

9 ~~((+55))~~ (49) "Retail-eligible species" means commercially
10 harvested salmon, crab, and sturgeon.

11 ~~((+56))~~ (50) "Saltwater" means those marine waters seaward of
12 river mouths.

13 ~~((+57))~~ (51) "Seaweed" means marine aquatic plant species that are
14 dependent upon the marine aquatic or tidal environment, and exist in
15 either an attached or free floating form, and includes but is not
16 limited to marine aquatic plants in the classes Chlorophyta,
17 Phaeophyta, and Rhodophyta.

18 ~~((+58))~~ (52) "Senior" means a person seventy years old or older.

19 ~~((+59))~~ (53) "Shark fin" means a raw, dried, or otherwise
20 processed detached fin or tail of a shark.

21 ~~((+60))~~ (54)(a) "Shark fin derivative product" means any product
22 intended for use by humans or animals that is derived in whole or in
23 part from shark fins or shark fin cartilage.

24 (b) "Shark fin derivative product" does not include a drug approved
25 by the United States food and drug administration and available by
26 prescription only or medical device or vaccine approved by the United
27 States food and drug administration.

28 ~~((+61))~~ (55) "Shellfish" means those species of marine and
29 freshwater invertebrates that have been classified and that shall not
30 be taken except as authorized by rule of the commission. The term
31 "shellfish" includes all stages of development and the bodily parts of
32 shellfish species.

33 ~~((+62))~~ (56) "State waters" means all marine waters and fresh
34 waters within ordinary high water lines and within the territorial
35 boundaries of the state.

36 ~~((+63))~~ (57) "Taxidermist" means a person who, for commercial
37 purposes, creates lifelike representations of fish and wildlife using
38 fish and wildlife parts and various supporting structures.

1 ((+64)) (58) "To fish," "to harvest," and "to take," and their
2 derivatives means an effort to kill, injure, harass, or catch a fish or
3 shellfish.

4 ((+65)) (59) "To hunt" and its derivatives means an effort to
5 kill, injure, capture, or harass a wild animal or wild bird.

6 ((+66)) (60) "To process" and its derivatives mean preparing or
7 preserving fish, wildlife, or shellfish.

8 ((+67)) (61) "To trap" and its derivatives means a method of
9 hunting using devices to capture wild animals or wild birds.

10 ((+68)) (62) "Trafficking" means offering, attempting to engage,
11 or engaging in sale, barter, or purchase of fish, shellfish, wildlife,
12 or deleterious exotic wildlife.

13 ((+69)) (63) "Unclaimed" means that no owner of the property has
14 been identified or has requested, in writing, the release of the
15 property to themselves nor has the owner of the property designated an
16 individual to receive the property or paid the required postage to
17 effect delivery of the property.

18 ~~((+70)) "Unlisted aquatic animal species" means a nonnative animal
19 species that has not been classified as a prohibited aquatic animal
20 species, a regulated aquatic animal species, or an unregulated aquatic
21 animal species by the commission.~~

22 ~~(+71) "Unregulated aquatic animal species" means a nonnative animal
23 species that has been classified as an unregulated aquatic animal
24 species by the commission.~~

25 (+72)) (64) "Wholesale fish dealer" means a person who, acting for
26 commercial purposes, takes possession or ownership of fish or shellfish
27 and sells, barter, or exchanges or attempts to sell, barter, or
28 exchange fish or shellfish that have been landed into the state of
29 Washington or entered the state of Washington in interstate or foreign
30 commerce.

31 ((+73)) (65) "Wild animals" means those species of the class
32 Mammalia whose members exist in Washington in a wild state. The term
33 "wild animal" does not include feral domestic mammals or old world rats
34 and mice of the family Muridae of the order Rodentia.

35 ((+74)) (66) "Wild birds" means those species of the class Aves
36 whose members exist in Washington in a wild state.

37 ((+75)) (67) "Wildlife" means all species of the animal kingdom
38 whose members exist in Washington in a wild state. This includes but

1 is not limited to mammals, birds, reptiles, amphibians, fish, and
2 invertebrates. The term "wildlife" does not include feral domestic
3 mammals, old world rats and mice of the family Muridae of the order
4 Rodentia, or those fish, shellfish, and marine invertebrates classified
5 as food fish or shellfish by the director. The term "wildlife"
6 includes all stages of development and the bodily parts of wildlife
7 members.

8 ((+76+)) (68) "Wildlife meat cutter" means a person who packs,
9 cuts, processes, or stores wildlife for consumption for another for
10 commercial purposes.

11 ((+77+)) (69) "Youth" means a person fifteen years old for fishing
12 and under sixteen years old for hunting.

13 **Sec. 302.** RCW 77.12.020 and 2002 c 281 s 3 are each amended to
14 read as follows:

15 (1) The director shall investigate the habits and distribution of
16 the various species of wildlife native to or adaptable to the habitats
17 of the state. The commission shall determine whether a species should
18 be managed by the department and, if so, classify it under this
19 section.

20 (2) The commission may classify by rule wild animals as game
21 animals and game animals as fur-bearing animals.

22 (3) The commission may classify by rule wild birds as game birds or
23 predatory birds. All wild birds not otherwise classified are protected
24 wildlife.

25 (4) In addition to those species listed in RCW 77.08.020, the
26 commission may classify by rule as game fish other species of the class
27 Osteichthyes that are commonly found in freshwater except those
28 classified as food fish by the director.

29 (5) The director may recommend to the commission that a species of
30 wildlife should not be hunted or fished. The commission may designate
31 species of wildlife as protected.

32 (6) If the director determines that a species of wildlife is
33 seriously threatened with extinction in the state of Washington, the
34 director may request its designation as an endangered species. The
35 commission may designate an endangered species.

36 (7) If the director determines that a species of the animal
37 kingdom, not native to Washington, is dangerous to the environment or

1 wildlife of the state, the director may request its designation as
2 deleterious exotic wildlife. The commission may designate deleterious
3 exotic wildlife.

4 ~~(8) ((Upon recommendation by the director, the commission may~~
5 ~~classify nonnative aquatic animal species according to the following~~
6 ~~categories:~~

7 ~~(a) Prohibited aquatic animal species:—These species are~~
8 ~~considered by the commission to have a high risk of becoming an~~
9 ~~invasive species and may not be possessed, imported, purchased, sold,~~
10 ~~propagated, transported, or released into state waters except as~~
11 ~~provided in RCW 77.15.253;~~

12 ~~(b) Regulated aquatic animal species:—These species are considered~~
13 ~~by the commission to have some beneficial use along with a moderate,~~
14 ~~but manageable risk of becoming an invasive species, and may not be~~
15 ~~released into state waters, except as provided in RCW 77.15.253.—The~~
16 ~~commission shall classify the following commercial aquaculture species~~
17 ~~as regulated aquatic animal species, and allow their release into state~~
18 ~~waters pursuant to rule of the commission: Pacific oyster (*Crassostrea*~~
19 ~~*gigas*), kumamoto oyster (*Crassostrea sikamea*), European flat oyster~~
20 ~~(*Ostrea edulis*), eastern oyster (*Crassostrea virginica*), manila clam~~
21 ~~(*Tapes philippinarum*), blue mussel (*Mytilus galloprovincialis*), and~~
22 ~~suminoe oyster (*Crassostrea ariankensis*);~~

23 ~~(c) Unregulated aquatic animal species:—These species are~~
24 ~~considered by the commission as having some beneficial use along with~~
25 ~~a low risk of becoming an invasive species, and are not subject to~~
26 ~~regulation under this title;~~

27 ~~(d) Unlisted aquatic animal species:—These species are not~~
28 ~~designated as a prohibited aquatic animal species, regulated aquatic~~
29 ~~animal species, or unregulated aquatic animal species by the~~
30 ~~commission, and may not be released into state waters. Upon request,~~
31 ~~the commission may determine the appropriate category for an unlisted~~
32 ~~aquatic animal species and classify the species accordingly;~~

33 ~~(e) This subsection (8) does not apply to the transportation or~~
34 ~~release of nonnative aquatic animal species by ballast water or ballast~~
35 ~~water discharge.~~

36 ~~(9))~~ Upon recommendation by the director, the commission may
37 develop a work plan to eradicate native aquatic species that threaten

1 human health. Priority shall be given to water bodies that the
2 department of health has classified as representing a threat to human
3 health based on the presence of a native aquatic species.

4 **Sec. 303.** RCW 77.15.080 and 2012 c 176 s 9 are each amended to
5 read as follows:

6 ((+1)) Based upon articulable facts that a person is engaged in
7 fishing, harvesting, or hunting activities, fish and wildlife officers
8 and ex officio fish and wildlife officers have the authority to
9 temporarily stop the person and check for valid licenses, tags,
10 permits, stamps, or catch record cards, and to inspect all fish,
11 shellfish, seaweed, and wildlife in possession as well as the equipment
12 being used to ensure compliance with the requirements of this title.
13 Fish and wildlife officers and ex officio fish and wildlife officers
14 also may request that the person write his or her signature for
15 comparison with the signature on his or her fishing, harvesting, or
16 hunting license. Failure to comply with the request is prima facie
17 evidence that the person is not the person named on the license. Fish
18 and wildlife officers may require the person, if age sixteen or older,
19 to exhibit a driver's license or other photo identification.

20 ~~((2) Based upon articulable facts that a person is transporting a
21 prohibited aquatic animal species or any aquatic plant, fish and
22 wildlife officers and ex officio fish and wildlife officers have the
23 authority to temporarily stop the person and inspect the watercraft to
24 ensure that the watercraft and associated equipment are not
25 transporting prohibited aquatic animal species or aquatic plants.))~~

26 **Sec. 304.** RCW 77.15.290 and 2012 c 176 s 21 are each amended to
27 read as follows:

28 (1) A person is guilty of unlawful transportation of fish or
29 wildlife in the second degree if the person:

30 (a) Knowingly imports, moves within the state, or exports fish,
31 shellfish, or wildlife in violation of any department rule governing
32 the transportation or movement of fish, shellfish, or wildlife and the
33 transportation does not involve big game, endangered fish or wildlife,
34 deleterious exotic wildlife, or fish, shellfish, or wildlife having a
35 value greater than two hundred fifty dollars; or

1 (b) Possesses but fails to affix or notch a big game transport tag
2 as required by department rule.

3 (2) A person is guilty of unlawful transportation of fish or
4 wildlife in the first degree if the person:

5 (a) Knowingly imports, moves within the state, or exports fish,
6 shellfish, or wildlife in violation of any department rule governing
7 the transportation or movement of fish, shellfish, or wildlife and the
8 transportation involves big game, endangered fish or wildlife,
9 deleterious exotic wildlife, or fish, shellfish, or wildlife with a
10 value of two hundred fifty dollars or more; or

11 (b) Knowingly transports shellfish, shellstock, or equipment used
12 in commercial culturing, taking, handling, or processing shellfish
13 without a permit required by authority of this title.

14 (3)(a) Unlawful transportation of fish or wildlife in the second
15 degree is a misdemeanor.

16 (b) Unlawful transportation of fish or wildlife in the first degree
17 is a gross misdemeanor.

18 (4) This section does not apply to(~~(a) Any person stopped at an~~
19 ~~aquatic))~~ invasive species (~~(check station who possesses a recreational~~
20 ~~or commercial watercraft that is contaminated with an aquatic invasive~~
21 ~~species if that person complies with all department directives for the~~
22 ~~proper decontamination of the watercraft and equipment; or (b) any~~
23 ~~person who has voluntarily submitted a recreational or commercial~~
24 ~~watercraft for inspection by the department or its designee and has~~
25 ~~received a receipt verifying that the watercraft has not been~~
26 ~~contaminated since its last use)).~~

27 **Sec. 305.** RCW 43.06.010 and 1994 c 223 s 3 are each amended to
28 read as follows:

29 In addition to those prescribed by the Constitution, the governor
30 may exercise the powers and perform the duties prescribed in this and
31 the following sections:

32 (1) The governor shall supervise the conduct of all executive and
33 ministerial offices;

34 (2) The governor shall see that all offices are filled, including
35 as provided in RCW 42.12.070, and the duties thereof performed, or in
36 default thereof, apply such remedy as the law allows; and if the remedy
37 is imperfect, acquaint the legislature therewith at its next session;

1 (3) The governor shall make the appointments and supply the
2 vacancies mentioned in this title;

3 (4) The governor is the sole official organ of communication
4 between the government of this state and the government of any other
5 state or territory, or of the United States;

6 (5) Whenever any suit or legal proceeding is pending against this
7 state, or which may affect the title of this state to any property, or
8 which may result in any claim against the state, the governor may
9 direct the attorney general to appear on behalf of the state, and
10 report the same to the governor, or to any grand jury designated by the
11 governor, or to the legislature when next in session;

12 (6) The governor may require the attorney general or any
13 prosecuting attorney to inquire into the affairs or management of any
14 corporation existing under the laws of this state, or doing business in
15 this state, and report the same to the governor, or to any grand jury
16 designated by the governor, or to the legislature when next in session;

17 (7) The governor may require the attorney general to aid any
18 prosecuting attorney in the discharge of the prosecutor's duties;

19 (8) The governor may offer rewards, not exceeding one thousand
20 dollars in each case, payable out of the state treasury, for
21 information leading to the apprehension of any person convicted of a
22 felony who has escaped from a state correctional institution or for
23 information leading to the arrest of any person who has committed or is
24 charged with the commission of a felony;

25 (9) The governor shall perform such duties respecting fugitives
26 from justice as are prescribed by law;

27 (10) The governor shall issue and transmit election proclamations
28 as prescribed by law;

29 (11) The governor may require any officer or board to make, upon
30 demand, special reports to the governor, in writing;

31 (12) The governor may, after finding that a public disorder,
32 disaster, energy emergency, or riot exists within this state or any
33 part thereof which affects life, health, property, or the public peace,
34 proclaim a state of emergency in the area affected, and the powers
35 granted the governor during a state of emergency shall be effective
36 only within the area described in the proclamation;

37 (13) The governor may, after finding that there exists within this
38 state an imminent danger of infestation of plant pests as defined in

1 RCW 17.24.007 or plant diseases which seriously endangers the
2 agricultural or horticultural industries of the state of Washington, or
3 which seriously threatens life, health, or economic well-being, order
4 emergency measures to prevent or abate the infestation or disease
5 situation, which measures, after thorough evaluation of all other
6 alternatives, may include the aerial application of pesticides;

7 (14) The governor, after finding that a prohibited level 1 or level
8 2 species as defined in chapter 77.-- RCW (the new chapter created in
9 section 123 of this act) has been detected and after finding that the
10 detected species seriously endangers or threatens the environment,
11 economy, human health, or well-being of the state of Washington, may
12 order emergency measures to prevent or abate the prohibited species,
13 which measures, after thorough evaluation of all other alternatives,
14 may include the surface or aerial application of pesticides;

15 (15) On all compacts forwarded to the governor pursuant to RCW
16 9.46.360(6), the governor is authorized and empowered to execute on
17 behalf of the state compacts with federally recognized Indian tribes in
18 the state of Washington pursuant to the federal Indian Gaming
19 Regulatory Act, 25 U.S.C. Sec. 2701 et seq., for conducting class III
20 gaming, as defined in the Act, on Indian lands.

21 **Sec. 306.** RCW 43.43.400 and 2011 c 171 s 8 are each amended to
22 read as follows:

23 ~~(1) ((The definitions in this subsection apply throughout this~~
24 ~~section unless the context clearly requires otherwise:~~

25 ~~(a) "Aquatic invasive species" means any invasive, prohibited,~~
26 ~~regulated, unregulated, or unlisted aquatic animal or plant species as~~
27 ~~defined under RCW 77.08.010 [(3),] (28), (40), (44), (58), and (59),~~
28 ~~aquatic noxious weeds as defined under RCW 17.26.020(5)(c), and aquatic~~
29 ~~nuisance species as defined under RCW 77.60.130(1).~~

30 ~~(b) "Recreational and commercial watercraft" includes the boat, as~~
31 ~~well as equipment used to transport the boat, and any auxiliary~~
32 ~~equipment such as attached or detached outboard motors.~~

33 ~~(2))~~ The aquatic invasive species enforcement account is created
34 in the state treasury. Moneys directed to the account from RCW
35 82.49.030 and 88.02.640 must be deposited in the account. Expenditures
36 from the account may only be used as provided in this section. Moneys
37 in the account may be spent only after appropriation.

1 ~~((3) Funds in the aquatic invasive species enforcement account may~~
2 ~~be appropriated to the Washington state patrol and the department of~~
3 ~~fish and wildlife to develop an aquatic invasive species enforcement~~
4 ~~program for recreational and commercial watercraft, which includes~~
5 ~~equipment used to transport the watercraft and auxiliary equipment such~~
6 ~~as attached or detached outboard motors. Funds must be expended as~~
7 ~~follows:~~

8 ~~(a) By the Washington state patrol, to inspect recreational and~~
9 ~~commercial watercraft that are required to stop at port of entry weigh~~
10 ~~stations managed by the Washington state patrol. The watercraft must~~
11 ~~be inspected for the presence of aquatic invasive species; and~~

12 ~~(b) By the department of fish and wildlife to:~~

13 ~~(i) Establish random check stations, to inspect recreational and~~
14 ~~commercial watercraft as provided for in RCW 77.12.879(3);~~

15 ~~(ii) Inspect or delegate inspection of recreational and commercial~~
16 ~~watercraft. If the department conducts the inspection, there will be~~
17 ~~no cost to the person requesting the inspection;~~

18 ~~(iii) Provide training to all department employees that are~~
19 ~~deployed in the field to inspect recreational and commercial~~
20 ~~watercraft; and~~

21 ~~(iv) Provide an inspection receipt verifying that the watercraft is~~
22 ~~not contaminated after the watercraft has been inspected at a check~~
23 ~~station or has been inspected at the request of the owner of the~~
24 ~~recreational or commercial watercraft. The inspection receipt is valid~~
25 ~~until the watercraft is used again.~~

26 ~~(4) The Washington state patrol and the department of fish and~~
27 ~~wildlife shall submit a biennial report to the appropriate legislative~~
28 ~~committees describing the actions taken to implement this section along~~
29 ~~with suggestions on how to better fulfill the intent of chapter 464,~~
30 ~~Laws of 2005. The first report is due December 1, 2007.))~~

31 (2) Expenditures from the account by the Washington state patrol
32 may only be used to inspect for the presence of aquatic invasive
33 species on aquatic conveyances that are required to stop at a
34 Washington state patrol port of entry weigh station.

35 (3) Expenditures from the account by the department of fish and
36 wildlife may only be used to develop and implement an: (a) Aquatic
37 invasive species local management grant program; and (b) aquatic
38 invasive species enforcement program including enforcement of chapter

1 77.-- RCW (the new chapter created in section 123 of this act),
2 enforcement of aquatic invasive species provisions in chapter 77.15
3 RCW, and training Washington state patrol employees working at port of
4 entry weigh stations on how to inspect aquatic conveyances for the
5 presence of aquatic invasive species.

6 (4) Unless the context clearly requires otherwise, the definitions
7 in both RCW 77.08.010 and section 102 of this act apply throughout this
8 section.

9 **Sec. 307.** RCW 10.31.100 and 2013 2nd sp.s. c 35 s 22 are each
10 amended to read as follows:

11 A police officer having probable cause to believe that a person has
12 committed or is committing a felony shall have the authority to arrest
13 the person without a warrant. A police officer may arrest a person
14 without a warrant for committing a misdemeanor or gross misdemeanor
15 only when the offense is committed in the presence of the officer,
16 except as provided in subsections (1) through (11) of this section.

17 (1) Any police officer having probable cause to believe that a
18 person has committed or is committing a misdemeanor or gross
19 misdemeanor, involving physical harm or threats of harm to any person
20 or property or the unlawful taking of property or involving the use or
21 possession of cannabis, or involving the acquisition, possession, or
22 consumption of alcohol by a person under the age of twenty-one years
23 under RCW 66.44.270, or involving criminal trespass under RCW 9A.52.070
24 or 9A.52.080, shall have the authority to arrest the person.

25 (2) A police officer shall arrest and take into custody, pending
26 release on bail, personal recognizance, or court order, a person
27 without a warrant when the officer has probable cause to believe that:

28 (a) An order has been issued of which the person has knowledge
29 under RCW 26.44.063, or chapter 7.92, 7.90, 9A.46, 10.99, 26.09, 26.10,
30 26.26, 26.50, or 74.34 RCW restraining the person and the person has
31 violated the terms of the order restraining the person from acts or
32 threats of violence, or restraining the person from going onto the
33 grounds of or entering a residence, workplace, school, or day care, or
34 prohibiting the person from knowingly coming within, or knowingly
35 remaining within, a specified distance of a location or, in the case of
36 an order issued under RCW 26.44.063, imposing any other restrictions or
37 conditions upon the person; or

1 (b) A foreign protection order, as defined in RCW 26.52.010, has
2 been issued of which the person under restraint has knowledge and the
3 person under restraint has violated a provision of the foreign
4 protection order prohibiting the person under restraint from contacting
5 or communicating with another person, or excluding the person under
6 restraint from a residence, workplace, school, or day care, or
7 prohibiting the person from knowingly coming within, or knowingly
8 remaining within, a specified distance of a location, or a violation of
9 any provision for which the foreign protection order specifically
10 indicates that a violation will be a crime; or

11 (c) The person is sixteen years or older and within the preceding
12 four hours has assaulted a family or household member as defined in RCW
13 10.99.020 and the officer believes: (i) A felonious assault has
14 occurred; (ii) an assault has occurred which has resulted in bodily
15 injury to the victim, whether the injury is observable by the
16 responding officer or not; or (iii) that any physical action has
17 occurred which was intended to cause another person reasonably to fear
18 imminent serious bodily injury or death. Bodily injury means physical
19 pain, illness, or an impairment of physical condition. When the
20 officer has probable cause to believe that family or household members
21 have assaulted each other, the officer is not required to arrest both
22 persons. The officer shall arrest the person whom the officer believes
23 to be the primary physical aggressor. In making this determination,
24 the officer shall make every reasonable effort to consider: (i) The
25 intent to protect victims of domestic violence under RCW 10.99.010;
26 (ii) the comparative extent of injuries inflicted or serious threats
27 creating fear of physical injury; and (iii) the history of domestic
28 violence of each person involved, including whether the conduct was
29 part of an ongoing pattern of abuse; or

30 (d) The person has violated RCW 46.61.502 or 46.61.504 or an
31 equivalent local ordinance and the police officer has knowledge that
32 the person has a prior offense as defined in RCW 46.61.5055 within ten
33 years.

34 (3) Any police officer having probable cause to believe that a
35 person has committed or is committing a violation of any of the
36 following traffic laws shall have the authority to arrest the person:

37 (a) RCW 46.52.010, relating to duty on striking an unattended car
38 or other property;

1 (b) RCW 46.52.020, relating to duty in case of injury to or death
2 of a person or damage to an attended vehicle;

3 (c) RCW 46.61.500 or 46.61.530, relating to reckless driving or
4 racing of vehicles;

5 (d) RCW 46.61.502 or 46.61.504, relating to persons under the
6 influence of intoxicating liquor or drugs;

7 (e) RCW 46.61.503 or 46.25.110, relating to persons having alcohol
8 or THC in their system;

9 (f) RCW 46.20.342, relating to driving a motor vehicle while
10 operator's license is suspended or revoked;

11 (g) RCW 46.61.5249, relating to operating a motor vehicle in a
12 negligent manner.

13 (4) A law enforcement officer investigating at the scene of a motor
14 vehicle accident may arrest the driver of a motor vehicle involved in
15 the accident if the officer has probable cause to believe that the
16 driver has committed in connection with the accident a violation of any
17 traffic law or regulation.

18 (5)(a) A law enforcement officer investigating at the scene of a
19 motor vessel accident may arrest the operator of a motor vessel
20 involved in the accident if the officer has probable cause to believe
21 that the operator has committed, in connection with the accident, a
22 criminal violation of chapter 79A.60 RCW.

23 (b) A law enforcement officer investigating at the scene of a motor
24 vessel accident may issue a citation for an infraction to the operator
25 of a motor vessel involved in the accident if the officer has probable
26 cause to believe that the operator has committed, in connection with
27 the accident, a violation of any boating safety law of chapter 79A.60
28 RCW.

29 (6) Any police officer having probable cause to believe that a
30 person has committed or is committing a violation of RCW 79A.60.040
31 shall have the authority to arrest the person.

32 (7) An officer may act upon the request of a law enforcement
33 officer in whose presence a traffic infraction was committed, to stop,
34 detain, arrest, or issue a notice of traffic infraction to the driver
35 who is believed to have committed the infraction. The request by the
36 witnessing officer shall give an officer the authority to take
37 appropriate action under the laws of the state of Washington.

1 (8) Any police officer having probable cause to believe that a
2 person has committed or is committing any act of indecent exposure, as
3 defined in RCW 9A.88.010, may arrest the person.

4 (9) A police officer may arrest and take into custody, pending
5 release on bail, personal recognizance, or court order, a person
6 without a warrant when the officer has probable cause to believe that
7 an order has been issued of which the person has knowledge under
8 chapter 10.14 RCW and the person has violated the terms of that order.

9 (10) Any police officer having probable cause to believe that a
10 person has, within twenty-four hours of the alleged violation,
11 committed a violation of RCW 9A.50.020 may arrest such person.

12 (11) A police officer having probable cause to believe that a
13 person illegally possesses or illegally has possessed a firearm or
14 other dangerous weapon on private or public elementary or secondary
15 school premises shall have the authority to arrest the person.

16 For purposes of this subsection, the term "firearm" has the meaning
17 defined in RCW 9.41.010 and the term "dangerous weapon" has the meaning
18 defined in RCW 9.41.250 and 9.41.280(1) (c) through (e).

19 (12) A law enforcement officer having probable cause to believe
20 that a person has committed a violation under RCW 77.15.160(4) may
21 issue a citation for an infraction to the person in connection with the
22 violation.

23 (13) A law enforcement officer having probable cause to believe
24 that a person has committed a criminal violation under section 205 or
25 206 of this act may arrest the person in connection with the violation.

26 (14) Except as specifically provided in subsections (2), (3), (4),
27 and (7) of this section, nothing in this section extends or otherwise
28 affects the powers of arrest prescribed in Title 46 RCW.

29 ~~((+13))~~ (15) No police officer may be held criminally or civilly
30 liable for making an arrest pursuant to subsection (2) or (9) of this
31 section if the police officer acts in good faith and without malice.

32 **Sec. 308.** RCW 77.15.360 and 2007 c 337 s 3 are each amended to
33 read as follows:

34 (1) A person is guilty of unlawful interfering in department
35 operations if the person prevents department employees from carrying
36 out duties authorized by this title, including but not limited to
37 interfering:

1 (a) In the operation of department vehicles, vessels, or aircraft;
2 (~~or~~)

3 (b) With the collection of samples of tissue, fluids, or other
4 bodily parts of fish, wildlife, and shellfish under RCW 77.12.071; or

5 (c) With actions authorized by a warrant issued under section 120
6 or 203 of this act.

7 (2) Unlawful interfering in department operations is a gross
8 misdemeanor.

9 **Sec. 309.** RCW 82.49.030 and 2010 c 161 s 1045 are each amended to
10 read as follows:

11 (1) The excise tax imposed under this chapter is due and payable to
12 the department of licensing, county auditor or other agent, or subagent
13 appointed by the director of the department of licensing at the time of
14 registration of a vessel. The department of licensing shall not issue
15 or renew a registration for a vessel until the tax is paid in full.

16 (2) Ninety percent of the excise tax collected under this chapter
17 must be deposited in the general fund.

18 (3) Ten percent of the excise tax collected under this chapter must
19 be distributed as follows:

20 (a) Sixty percent must be deposited into the aquatic invasive
21 species prevention account established under section 119 of this act;
22 and

23 (b) Forty percent must be deposited into the aquatic invasive
24 species enforcement account established under RCW 43.43.400.

25 NEW SECTION. **Sec. 310.** The sum of thirty thousand dollars, or as
26 much thereof as may be necessary, is appropriated for the biennium
27 ending June 30, 2015, from the aquatic invasive species prevention
28 account to the department of fish and wildlife for a contract, that
29 includes performance measures and requires reporting on outcomes, with
30 the Pacific Northwest economic region nonprofit organization to support
31 regional coordination of invasive species prevention activities in the
32 Pacific Northwest.

33 NEW SECTION. **Sec. 311.** The sum of twenty thousand dollars, or as
34 much thereof as may be necessary, is appropriated for the biennium
35 ending June 30, 2015, from the aquatic invasive species enforcement

1 account to the department of fish and wildlife for a contract, that
2 includes performance measures and requires reporting on outcomes, with
3 the Pacific Northwest economic region nonprofit organization to support
4 regional coordination of invasive species prevention activities in the
5 Pacific Northwest.

6 NEW SECTION. **Sec. 312.** The following acts or parts of acts are
7 each repealed:

8 (1) RCW 77.12.875 (Prohibited aquatic animal species--Infested
9 state waters) and 2002 c 281 s 5;

10 (2) RCW 77.12.878 (Infested waters--Rapid response plan) and 2002
11 c 281 s 6;

12 (3) RCW 77.12.879 (Aquatic invasive species prevention account--
13 Aquatic invasive species prevention program for recreational and
14 commercial watercraft--Enforcement program--Check stations--Training--
15 Report to the legislature) and 2013 c 307 s 1, 2011 c 171 s 113, 2011
16 c 169 s 4, 2009 c 333 s 22, 2007 c 350 s 3, & 2005 c 464 s 3;

17 (4) RCW 77.12.882 (Aquatic invasive species--Inspection of
18 recreational and commercial watercraft--Rules--Signage) and 2007 c 350
19 s 4;

20 (5) RCW 77.15.253 (Unlawful use of prohibited aquatic animal
21 species--Penalty) and 2007 c 350 s 5 & 2002 c 281 s 4;

22 (6) RCW 77.15.293 (Unlawfully avoiding aquatic invasive species
23 check stations--Penalty) and 2007 c 350 s 7;

24 (7) RCW 77.60.110 (Zebra mussels and European green crabs--Draft
25 rules--Prevention of introduction and dispersal) and 1998 c 153 s 2;
26 and

27 (8) RCW 77.60.120 (Infested waters--List published) and 1998 c 153
28 s 3.

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