

HOUSE BILL REPORT

HB 1429

As Reported by House Committee On:
Agriculture & Natural Resources

Title: An act relating to aquatic invasive species management.

Brief Description: Concerning aquatic invasive species management.

Sponsors: Representatives Chandler, Tarleton, Lytton, Morris, Appleton and Fitzgibbon; by request of Department of Fish and Wildlife.

Brief History:

Committee Activity:

Agriculture & Natural Resources: 1/24/17, 1/31/17, 2/9/17, 2/14/17 [DPS].

Brief Summary of Substitute Bill

- Consolidates the Aquatic Invasive Species Enforcement Account and the Aquatic Invasive Species Prevention Account into a single Aquatic Invasive Species Management Account, funded by derelict vessel and invasive species removal fees, aquatic invasive species prevention permits, and utility taxes, among other sources, for the purpose of funding certain aquatic invasive species-related measures.
- Creates a \$20 aquatic invasive species prevention permit applicable to operators of certain vessels and aquatic conveyances, and to commercial transporters of certain vessels and aquatic conveyances.
- Creates, as an infraction under the Fish and Wildlife Enforcement Code, the failure to possess a valid aquatic invasive species prevention permit.
- Requires that owners and operators of vessels covered by Washington's ballast water management law ensure that vessels under their ownership or control do not release aquatic organisms into the waters of the state except as may be authorized by rules adopted by the Department of Fish and Wildlife.

HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass.
Signed by 13 members: Representatives Blake, Chair; Chapman, Vice Chair; Buys, Ranking

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Minority Member; Dent, Assistant Ranking Minority Member; Chandler, Fitzgibbon, Orcutt, Pettigrew, Robinson, Schmick, Springer, Stanford and J. Walsh.

Staff: Robert Hatfield (786-7117).

Background:

The Washington Department of Fish and Wildlife (WDFW) administers several laws that manage and restrict aquatic invasive species. Aquatic invasive species are defined as water-dependent nonnative animals that do not occur naturally in Washington and that pose a risk of harming or threatening the state's environmental, economic, or human resources.

Aquatic Invasive Species Enforcement.

A person in possession of an aquatic conveyance who enters Washington by road, air, or water is required to have a certificate of inspection declaring that, to the extent feasible, the aquatic conveyance does not carry or contain an invasive species. Aquatic conveyances include watercraft and associated equipment, float planes, construction equipment, fish tanker trucks, hydroelectric and irrigation equipment, personal fishing and hunting gear, and materials used for aquatic habitat mitigation or restoration.

Anyone using an aquatic conveyance must clean and drain the conveyance after use on a water body or property. This includes removal of visible aquatic plants, animals, other organisms, and water from the water body.

The WDFW may establish mandatory check stations for the inspection of watercraft. The WDFW may adopt rules covering other types of aquatic conveyances that must stop at check stations. A person stopped at a check station must allow inspection for aquatic invasive species and clean and drain requirements, and follow any clean and drain or decontamination orders given.

The Aquatic Invasive Species Enforcement Account.

The Washington State Patrol is authorized, after appropriation, to use funds in the Aquatic Invasive Species Enforcement Account to inspect for the presence of aquatic invasive species. The WDFW is authorized, after appropriation, to use funds from the account to develop and implement an aquatic invasive species enforcement program. The account is funded by a distribution of 50 cents from every \$5 derelict vessel and invasive species removal fee.

The Aquatic Invasive Species Prevention Account.

The WDFW is authorized, after appropriation, to use funds from the Aquatic Invasive Species Prevention Account to implement the provisions of Washington's invasive species law. The account is funded by a distribution of \$1.50 from every \$5 derelict vessel and invasive species removal fee.

Ballast Water Management.

The WDFW is charged with developing and implementing standards for the discharge of ballast water in order to reduce the introduction of invasive species. The Ballast Water Management Account was created for the purpose of carrying out Washington's ballast water

management law. The account is funded by fees and penalties under Washington's ballast water management law. The ballast water management law applies, with some exceptions, to vessels of 300 gross tons or more that are capable of carrying ballast water into the waters of the state after operating outside the waters of the state.

Invasive Species Infractions.

It is a natural resource infraction under the Fish and Wildlife Enforcement Code to transport aquatic plants on public roads.

Summary of Substitute Bill:

Creation of the Aquatic Species Management Account.

The Aquatic Invasive Species Management Account is created in the State Treasury, replacing the Aquatic Invasive Species Enforcement Account and the Aquatic Invasive Species Prevention Account. The Aquatic Invasive Species Management Account is authorized to receive funds from various vessel fees, utility taxes, and aquatic invasive species prevention permits, as well as from legislative appropriations, penalties received by the WDFW for aquatic invasive species management, and other sources. Expenditures from the account may be made only after appropriation, and only to implement certain aquatic invasive species-related measures. Up to \$1 million per year may be appropriated from the account to the WDFW to fund an aquatic invasive species local management grant program for the purpose of managing aquatic invasive species.

Funding for the Aquatic Species Management Account.

Two dollars out of every derelict vessel and invasive species removal fee charged by the WDFW must be deposited in the Aquatic Invasive Species Management Account.

A portion of the public utility tax collected from light and power businesses must be deposited into the Aquatic Invasive Species Management Account. That portion is 0.000176 percent in the 2017-2019 fiscal biennium, 0.000445 percent in the 2019-2021 biennium, and 0.000673 percent in succeeding fiscal biennia.

The WDFW is authorized to issue aquatic invasive species prevention permits. Such permits are required for each seaplane or vessel registered in another state, before such vessel or seaplane may enter any water body of the state. Such permits are also required for certain categories of seaplanes and vessels that may be transported commercially in the state, if those vessels or seaplanes have previously been in waters of any other state or country. The fee for an aquatic invasive species prevention permit is \$20, and the permit is valid for one year. The fee must be deposited in the Aquatic Invasive Species Management Account.

Modification of the Ballast Water Management Account.

The name of the Ballast Water Management Account in the State Treasury is changed to the Ballast Water and Biofouling Management Account. Biofouling is defined as the accumulation of aquatic organisms on a vessel, including microorganisms, plants, and animals. Expenditures from the Ballast Water and Biofouling Management Account may be

made only after appropriation, only to carry out the purposes of Washington's ballast water management law, and not for the salaries of any permanent-WDFW employees.

Prohibitions and Requirements.

Owners and operators of vessels covered by Washington's ballast water management law are required to ensure that vessels under their ownership or control do not release biofouling into the waters of the state except as may be authorized by rules adopted by the WDFW.

Failing to possess a valid aquatic invasive species prevention permit is created as an infraction under the Fish and Wildlife Enforcement Code. Transporting aquatic plants on public roads is removed as an infraction under the Fish and Wildlife Enforcement Code.

Inspection and Decontamination Fees.

By December 1, 2018, the WDFW is directed to provide the Legislature with recommendations for a fee schedule for the inspection and decontamination of aquatic conveyances.

Substitute Bill Compared to Original Bill:

Commercial vessels are removed from the category of aquatic conveyances for which an aquatic invasive species permit must be obtained before such conveyance may enter any water body of the state. The \$125 fee for vessels subject to Washington's ballast water management law is eliminated.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 14, 2017.

Effective Date of Substitute Bill: This bill takes effect 90 days after adjournment of the session in which the bill is passed, except for section 104, relating to fees, which takes effect July 1, 2019.

Staff Summary of Public Testimony:

(In support) This bill is in part a response to the Legislature's request that the Department of Fish and Wildlife (WDFW) develop long-term funding recommendations regarding aquatic invasive species. If zebra mussels or quagga mussels were to invade Washington, it could cost hundreds of jobs and up to \$100 million per year. This bill positions the WDFW to better respond to the threat of aquatic invasive species. The funding in the bill would bring funding for aquatic invasive species up to a funding level comparable to that of other states in the region. The bill is a result of recommendations from the Aquatic Invasive Species Funding Advisory Committee. The utility tax component of the bill is a function of the impact that aquatic invasive species would have on electricity generation in Washington. User fees alone do not reflect the benefit that everyone in Washington enjoys from keeping aquatic invasive species out of Washington. Every year that zebra and quagga mussels can be kept out of Washington is another year that scientists have to develop a solution. And

every year that aquatic invasive species can be kept out of Washington is another year of not having to pay the costs that other states are having to pay to deal with aquatic invasive species infestations.

(Opposed) Vessel operators expend money to comply with a variety of other rules, and this bill's program for ballast water management largely duplicates a federal program. There is no evidence that the state program would add any additional benefit. Seventy eight percent of vessels calling at Puget Sound ports do not discharge any ballast water. Many do open water exchange of ballast water. This bill would increase port call costs. There is no reduction in risk from shipping vessels as a result of the ballast water management program that the WDFW would implement under the bill. Ports in Washington are in tight competition with Canadian ports, and it is not good for the Washington ports to add additional boats coming to Washington. It is unclear why the federal regulations are insufficient. Shipping companies will be making their decisions in April as to which ports they will be using, and they are paying attention to this bill. The nexus between saltwater vessels and aquatic invasive species is unclear, where most of the threats seem to be from freshwater.

(Other) The \$125 fee is a problem. The types of vessels that would be subject to the fee pose little risk of spreading aquatic invasive species.

Persons Testifying: (In support) Justin Bush, Washington Invasive Species Council; and Bill Tweit, Department of Fish and Wildlife.

(Opposed) Amber Carter, Columbia River Steamship Operators Association; Jordan Royer, Pacific Merchant Shipping Association; Gerry O'Keefe, Washington Public Ports Association; and Sean Eagan, Northwest Seaport Alliance.

(Other) Cliff Webster, American Waterways Operators.

Persons Signed In To Testify But Not Testifying: None.