

SENATE BILL REPORT

ESSB 5303

As Passed Senate, June 29, 2017

Title: An act relating to aquatic invasive species management.

Brief Description: Concerning aquatic invasive species management.

Sponsors: Senate Committee on Natural Resources & Parks (originally sponsored by Senators Honeyford, Rolfes, Chase, Hawkins, Warnick, Bailey and Ranker; by request of Department of Fish and Wildlife).

Brief History:

Committee Activity: Natural Resources & Parks: 1/26/17, 2/07/17 [DPS-WM, DNP].
Ways & Means: 2/16/17, 3/16/17 [DPS(NRP), DNP, w/oRec].

Floor Activity:

Passed Senate: 4/04/17, 48-0.

First Special Session: Passed Senate: 5/02/17, 45-0.

Third Special Session: Passed Senate: 6/29/17, 49-0.

Brief Summary of Engrossed First Substitute Bill

- Provides funding for aquatic invasive species (AIS) management.
- Establishes AIS permitting requirements.
- Sets ballast water and biofouling requirements and a rulemaking process.

SENATE COMMITTEE ON NATURAL RESOURCES & PARKS

Majority Report: That Substitute Senate Bill No. 5303 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Pearson, Chair; Hawkins, Vice Chair; Van De Wege, Ranking Minority Member; Fortunato.

Minority Report: Do not pass.

Signed by Senator McCoy.

Staff: Curt Gavigan (786-7437)

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.

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 5303 as recommended by Committee on Natural Resources & Parks be substituted therefor, and the substitute bill do pass.

Signed by Senators Braun, Chair; Brown, Vice Chair; Rossi, Vice Chair; Honeyford, Vice Chair, Capital Budget ; Bailey, Becker, Conway, Fain, Keiser, Miloscia, Padden, Schoesler, Warnick and Zeiger.

Minority Report: Do not pass.

Signed by Senators Ranker, Ranking Minority Member; Carlyle, Darneille and Hasegawa.

Minority Report: That it be referred without recommendation.

Signed by Senators Rolfes, Assistant Ranking Minority Member, Operating Budget; Frockt, Assistant Ranking Minority Member, Capital Budget.

Staff: Jed Herman (786-7346)

Background: Department of Fish and Wildlife's (DFW) Invasive Species Authority in General. Statute designates DFW as the state's lead agency for managing many types of invasive species, both aquatic and terrestrial. Subject to the availability of funding, DFW may conduct activities to include the following:

- monitoring and responding to infestations;
- conducting education and outreach; and
- providing technical assistance or other support to government entities and private groups.

Aquatic Invasive Species (AIS) Inspections and Decontamination. Statute requires certain vessels and equipment to meet AIS documentation requirements, which includes transportable personal property such as watercraft, watercraft-related equipment, float planes, fish tanker trucks, irrigation equipment, and fishing gear. DFW is required to implement this requirement by rule, including identifying allowable certificate of inspection forms and the type of conveyances to which the requirement applies.

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.

DFW may establish mandatory check stations for the inspection of watercraft. A person stopped at a check station must allow inspection for AIS and clean and drain requirements, and follow any clean and drain or decontamination orders given.

Ballast Water Requirements. Generally, vessels of 300 gross tons or more must meet requirements for ballast water including reporting and management standards.

Summary of Engrossed First Substitute Bill: Establishes AIS Permitting Requirements for Vessels and Aquatic Conveyances. A person must obtain an AIS prevention permit before:

- placing or operating a seaplane or vessel that is registered out of state in Washington waters; or
- commercially transporting certain seaplanes or vessels into or through the state.

Failure to possess a permit when required is an infraction. Permit exemptions are established including for transportation of new vessels and certain seaplanes and vessels in shared boundary waters.

An AIS prevention permit is \$20 and is valid for one year. Funds must be deposited in the AIS management account.

Establishes Biofouling Requirements. The owner of a vessel required to meet state ballast water requirements must also meet standards for biofouling, relating to the accumulation of aquatic organisms on a vessel. DFW must adopt by rule standards and requirements for the release of biofouling, which must be established in consultation with a collaborative forum including regulated industries and potentially affected stakeholders. The rules must:

- ensure that biofouling poses a minimal risk;
- be based on best available technology; and
- where practical and appropriate, be consistent with federal standards and requirements.

Makes Other AIS-Related Changes.

- authorizes appropriations from the AIS management account for a grant program to fund activities such as managing AIS at a local level, developing AIS rapid response agreements, and conducting innovative research that supports on the ground efforts;
- specifies ballast water and biofouling rulemaking authority for DFW; and
- defines terms.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill contains several effective dates. Please refer to the bill.

Staff Summary of Public Testimony on Original Bill (Natural Resources & Parks): *The committee recommended a different version of the bill than what was heard.* PRO: AIS could create large problems for irrigators and energy producers in our state, as seen in many affected areas of the country. The state needs to get a handle on this issue since AIS is difficult to eradicate once they arrive. The current DFW AIS budget is small and they need resources to expand the program and keep AIS out. Interim discussions have led to consensus on the primary elements of this bill, although there is not full agreement on how to fund it. While there are currently AIS enforcement tools in place, this funding would help promote equally valuable activities such as education and outreach. Recreational boaters have a preexisting commitment to fund the program, and other risk areas should also participate.

CON: The shipping industry is highly regulated through ballast water programs at the international and federal levels. The industry supports strong international and federal standards so they do not have to deal with a regulatory patchwork. The new costs on shipping in the bill do not necessarily align with the AIS risks posed by that industry. The primary issue in the bill is the shipping fee, which was not agreed to by all parties in interim discussions and could impact port competitiveness.

OTHER: This is a very competitive time for the steamship industry, and the shipping fee could impact competitiveness.

Persons Testifying (Natural Resources & Parks): PRO: Senator Jim Honeyford, Prime Sponsor; Shaun Seaman, Chelan County PUD; Doug Levy, Recreational Boating Assn of Washington; Justin Bush, Washington Invasive Species Council; Bill Tweit, Special Assistant, WDFW; Ben Buchholz, City of Bellingham and Whatcom County.

CON: Amber Carter, Client - Columbia River; Jordan Royer, Pacific Merchant Shipping Association; Cliff Webster, American Waterways Operators; Gerry O'Keefe, Washington Public Ports.

OTHER: Sean Eagan, The Northwest Seaport Alliance.

Persons Signed In To Testify But Not Testifying (Natural Resources & Parks): No one.

Staff Summary of Public Testimony on First Substitute (Ways & Means): PRO: This bill represents the outgrowth of existing efforts and suggestions from WDFW. This bill is necessary for prevention efforts across the state; supportive based on prevention efforts at Lake Whatcom.

Persons Testifying (Ways & Means): PRO: Pinky Vargas, City of Bellingham City Council Member, Ward 4; Bill Tweit, WDFW.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.