
HOUSE BILL 1429

State of Washington

65th Legislature

2017 Regular Session

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

Read first time 01/19/17. Referred to Committee on Agriculture & Natural Resources.

1 AN ACT Relating to aquatic invasive species management; amending
2 RCW 43.43.400, 77.120.110, 82.16.020, 77.120.070, 77.135.160,
3 77.120.010, 77.135.110, and 77.135.120; reenacting and amending RCW
4 88.02.640, 88.02.640, 77.15.160, and 77.135.010; adding new sections
5 to chapter 77.135 RCW; adding new sections to chapter 77.120 RCW;
6 creating a new section; repealing RCW 77.12.879; prescribing
7 penalties; providing an effective date; and providing an expiration
8 date.

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

10 **PART ONE**

11 **AQUATIC INVASIVE SPECIES MANAGEMENT—AQUATIC INVASIVE SPECIES, BALLAST**
12 **WATER, AND BIOFOULING MANAGEMENT ACCOUNTS**

13 NEW SECTION. **Sec. 101.** A new section is added to chapter 77.135
14 RCW to read as follows:

15 The aquatic invasive species management account is created in the
16 state treasury. All receipts directed to the account from RCW
17 88.02.640, 82.16.020, and section 204 of this act, as well as
18 legislative appropriations, gifts, donations, fees, and penalties
19 received by the department for aquatic invasive species management,
20 must be deposited into the account. Moneys in the account may be used

1 only after appropriation. Expenditures from the account may only be
2 used to implement aquatic invasive species-related provisions under
3 this title.

4 **Sec. 102.** RCW 43.43.400 and 2014 c 202 s 306 are each amended to
5 read as follows:

6 ~~(1) ((The aquatic invasive species enforcement account is created
7 in the state treasury. Moneys directed to the account from RCW
8 88.02.640 must be deposited in the account. Expenditures from the
9 account may only be used as provided in this section. Moneys in the
10 account may be spent only after appropriation.~~

11 ~~(2) Expenditures from the account by the Washington state patrol
12 may only be used))~~ Money in the aquatic invasive species management
13 account created in section 101 of this act may be used by the
14 Washington state patrol for aquatic invasive species inspection
15 training and to inspect for the presence of aquatic invasive species
16 on aquatic conveyances that are required to stop at a Washington
17 state patrol port of entry weigh station.

18 ~~((3) Expenditures from the account by the department of fish and
19 wildlife may only be used to develop and implement an aquatic
20 invasive species enforcement program including enforcement of chapter
21 77.135 RCW, enforcement of aquatic invasive species provisions in
22 chapter 77.15 RCW, and training Washington state patrol employees
23 working at port of entry weigh stations on how to inspect aquatic
24 conveyances for the presence of aquatic invasive species.~~

25 ~~(4))~~ (2) Unless the context clearly requires otherwise, the
26 definitions in both RCW 77.08.010 and 77.135.010 apply throughout
27 this section.

28 **Sec. 103.** RCW 88.02.640 and 2015 3rd sp.s. c 44 s 216, 2015 3rd
29 sp.s. c 6 s 803, and 2015 2nd sp.s. c 1 s 2 are each reenacted and
30 amended to read as follows:

31 (1) In addition to any other fees and taxes required by law, the
32 department, county auditor or other agent, or subagent appointed by
33 the director must charge the following vessel fees and surcharge:

34 FEE	AMOUNT	AUTHORITY	DISTRIBUTION
35 (a) Dealer temporary permit	\$5.00	RCW 88.02.800(2)	General fund

1	(b) Derelict vessel and	Subsection (3) of this	Subsection (3) of this	Subsection (3) of this
2	invasive species	section	section	section
3	removal			
4	(c) Derelict vessel removal	\$1.00	Subsection (4) of this	Subsection (4) of this
5	surcharge		section	section
6	(d) Duplicate certificate of	\$1.25	RCW 88.02.530(1)(c)	General fund
7	title			
8	(e) Duplicate registration	\$1.25	RCW 88.02.590(1)(c)	General fund
9	(f) Filing	RCW 46.17.005	RCW 88.02.560(2)	RCW 46.68.400
10	(g) License plate technology	RCW 46.17.015	RCW 88.02.560(2)	RCW 46.68.370
11	(h) License service	RCW 46.17.025	RCW 88.02.560(2)	RCW 46.68.220
12	(i) Nonresident vessel	Subsection (5) of this	RCW 88.02.620(4)	Subsection (5) of this
13	permit	section		section
14	(j) Quick title service	\$50.00	RCW 88.02.540(3)	Subsection (7) of this
15				section
16	(k) Registration	\$10.50	RCW 88.02.560(2)	RCW 88.02.650
17	(l) Replacement decal	\$1.25	RCW 88.02.595(1)(c)	General fund
18	(m) Service fee	RCW 46.17.040	RCW 88.02.515 and	RCW 46.17.040
19			88.02.560(2)	
20	(n) Title application	\$5.00	RCW 88.02.515	General fund
21	(o) Transfer	\$1.00	RCW 88.02.560(7)	General fund
22	(p) Vessel visitor permit	\$30.00	RCW 88.02.610(3)	Subsection (6) of this
23				section

24 (2) The five dollar dealer temporary permit fee required in
25 subsection (1) of this section must be credited to the payment of
26 registration fees at the time application for registration is made.

27 (3) The derelict vessel and invasive species removal fee required
28 in subsection (1) of this section is five dollars and must be
29 distributed as follows:

30 (a) (~~One dollar and fifty cents~~) Two dollars must be deposited
31 in the aquatic invasive species (~~prevention~~) management account
32 created in (~~RCW 77.12.879~~) section 101 of this act;

33 (b) One dollar must be deposited into the aquatic algae control
34 account created in RCW 43.21A.667; and

35 (c) (~~Fifty cents must be deposited into the aquatic invasive~~
36 ~~species enforcement account created in RCW 43.43.400; and~~

1 ~~(d)~~) Two dollars must be deposited in the derelict vessel
2 removal account created in RCW 79.100.100.

3 (4) In addition to other fees required in this section, an annual
4 derelict vessel removal surcharge of one dollar must be charged with
5 each vessel registration. The surcharge is to address the significant
6 backlog of derelict vessels accumulated in Washington waters that
7 pose a threat to the health and safety of the people and to the
8 environment and must be deposited into the derelict vessel removal
9 account created in RCW 79.100.100.

10 (5)(a) The amount of the nonresident vessel permit fee is:

11 (i) For a vessel owned by a nonresident natural person, twenty-
12 five dollars; and

13 (ii) For a nonresident vessel owner that is not a natural person,
14 the fee is equal to:

15 (A) Twenty-five dollars per foot for vessels between thirty and
16 ninety-nine feet in length;

17 (B) Thirty dollars per foot for vessels between one hundred and
18 one hundred twenty feet in length; and

19 (C) Thirty-seven dollars and fifty cents per foot for vessels
20 between one hundred twenty-one and one hundred sixty-four feet in
21 length. The fee must be multiplied by the extreme length of the
22 vessel in feet, rounded up to the nearest whole foot.

23 (b) The fee must be paid by the vessel owner to the department.
24 Any moneys remaining from the fee after the payment of costs to
25 administer the permit must be allocated to counties by the state
26 treasurer for approved boating safety programs under RCW 88.02.650.

27 (c) A nonresident vessel owner that is not a natural person may
28 not obtain more than two nonresident vessel permits under RCW
29 88.02.620 within any thirty-six month period.

30 (6) The thirty dollar vessel visitor permit fee must be
31 distributed as follows:

32 (a) Five dollars must be deposited in the derelict vessel removal
33 account created in RCW 79.100.100;

34 (b) The department may keep an amount to cover costs for
35 providing the vessel visitor permit;

36 (c) Any moneys remaining must be allocated to counties by the
37 state treasurer for approved boating safety programs under RCW
38 88.02.650; and

1 (d) Any fees required for licensing agents under RCW 46.17.005
2 are in addition to any other fee or tax due for the titling and
3 registration of vessels.

4 (7)(a) The fifty dollar quick title service fee must be
5 distributed as follows:

6 (i) If the fee is paid to the director, the fee must be deposited
7 to the general fund.

8 (ii) If the fee is paid to the participating county auditor or
9 other agent appointed by the director, twenty-five dollars must be
10 deposited to the general fund. The remainder must be retained by the
11 county treasurer in the same manner as other fees collected by the
12 county auditor.

13 (iii) If the fee is paid to a subagent appointed by the director,
14 twenty-five dollars must be deposited to the general fund. The
15 remaining twenty-five dollars must be distributed as follows: Twelve
16 dollars and fifty cents must be retained by the county treasurer in
17 the same manner as other fees collected by the county auditor and
18 twelve dollars and fifty cents must be retained by the subagent.

19 (b) For the purposes of this subsection, "quick title" has the
20 same meaning as in RCW 88.02.540.

21 (8) The department, county auditor or other agent, or subagent
22 appointed by the director shall charge the service fee under
23 subsection (1)(m) of this section beginning January 1, 2016.

24 **Sec. 104.** RCW 88.02.640 and 2015 3rd sp.s. c 44 s 216 and 2015
25 2nd sp.s. c 1 s 2 are each reenacted and amended to read as follows:

26 (1) In addition to any other fees and taxes required by law, the
27 department, county auditor or other agent, or subagent appointed by
28 the director shall charge the following vessel fees and surcharge:

29 FEE	AMOUNT	AUTHORITY	DISTRIBUTION
30 (a) Dealer temporary permit	\$5.00	RCW 88.02.800(2)	General fund
31 (b) Derelict vessel and 32 invasive species 33 removal	Subsection (3) of this section	Subsection (3) of this section	Subsection (3) of this section
34 (c) Derelict vessel removal 35 surcharge	\$1.00	Subsection (4) of this section	Subsection (4) of this section
36 (d) Duplicate certificate of 37 title	\$1.25	RCW 88.02.530(1)(c)	General fund

1	(e) Duplicate registration	\$1.25	RCW 88.02.590(1)(c)	General fund
2	(f) Filing	RCW 46.17.005	RCW 88.02.560(2)	RCW 46.68.400
3	(g) License plate technology	RCW 46.17.015	RCW 88.02.560(2)	RCW 46.68.370
4	(h) License service	RCW 46.17.025	RCW 88.02.560(2)	RCW 46.68.220
5	(i) Nonresident vessel	\$25.00	RCW 88.02.620(3)	Subsection (5) of this
6	permit			section
7	(j) Quick title service	\$50.00	RCW 88.02.540(3)	Subsection (7) of this
8				section
9	(k) Registration	\$10.50	RCW 88.02.560(2)	RCW 88.02.650
10	(l) Replacement decal	\$1.25	RCW 88.02.595(1)(c)	General fund
11	(m) Service fee	RCW 46.17.040	RCW 88.02.515 and	RCW 46.17.040
12			88.02.560(2)	
13	(n) Title application	\$5.00	RCW 88.02.515	General fund
14	(o) Transfer	\$1.00	RCW 88.02.560(7)	General fund
15	(p) Vessel visitor permit	\$30.00	RCW 88.02.610(3)	Subsection (6) of this
16				section

17 (2) The five dollar dealer temporary permit fee required in
18 subsection (1) of this section must be credited to the payment of
19 registration fees at the time application for registration is made.

20 (3) The derelict vessel and invasive species removal fee required
21 in subsection (1) of this section is five dollars and must be
22 distributed as follows:

23 (a) (~~One dollar and fifty cents~~) Two dollars must be deposited
24 in the aquatic invasive species (~~prevention~~) management account
25 created in (~~RCW 77.12.879~~) section 101 of this act;

26 (b) One dollar must be deposited into the aquatic algae control
27 account created in RCW 43.21A.667; and

28 (c) (~~Fifty cents must be deposited into the aquatic invasive~~
29 ~~species enforcement account created in RCW 43.43.400; and~~

30 ~~(d)~~) Two dollars must be deposited in the derelict vessel
31 removal account created in RCW 79.100.100.

32 (4) In addition to other fees required in this section, an annual
33 derelict vessel removal surcharge of one dollar must be charged with
34 each vessel registration. The surcharge is to address the significant
35 backlog of derelict vessels accumulated in Washington waters that
36 pose a threat to the health and safety of the people and to the

1 environment and must be deposited into the derelict vessel removal
2 account created in RCW 79.100.100.

3 (5) The twenty-five dollar nonresident vessel permit fee must be
4 paid by the vessel owner to the department for the cost of providing
5 the identification document by the department. Any moneys remaining
6 from the fee after the payment of costs must be allocated to counties
7 by the state treasurer for approved boating safety programs under RCW
8 88.02.650.

9 (6) The thirty dollar vessel visitor permit fee must be
10 distributed as follows:

11 (a) Five dollars must be deposited in the derelict vessel removal
12 account created in RCW 79.100.100;

13 (b) The department may keep an amount to cover costs for
14 providing the vessel visitor permit;

15 (c) Any moneys remaining must be allocated to counties by the
16 state treasurer for approved boating safety programs under RCW
17 88.02.650; and

18 (d) Any fees required for licensing agents under RCW 46.17.005
19 are in addition to any other fee or tax due for the titling and
20 registration of vessels.

21 (7)(a) The fifty dollar quick title service fee must be
22 distributed as follows:

23 (i) If the fee is paid to the director, the fee must be deposited
24 to the general fund.

25 (ii) If the fee is paid to the participating county auditor or
26 other agent appointed by the director, twenty-five dollars must be
27 deposited to the general fund. The remainder must be retained by the
28 county treasurer in the same manner as other fees collected by the
29 county auditor.

30 (iii) If the fee is paid to a subagent appointed by the director,
31 twenty-five dollars must be deposited to the general fund. The
32 remaining twenty-five dollars must be distributed as follows: Twelve
33 dollars and fifty cents must be retained by the county treasurer in
34 the same manner as other fees collected by the county auditor and
35 twelve dollars and fifty cents must be retained by the subagent.

36 (b) For the purposes of this subsection, "quick title" has the
37 same meaning as in RCW 88.02.540.

38 (8) The department, county auditor or other agent, or subagent
39 appointed by the director shall charge the service fee under
40 subsection (1)(m) of this section beginning January 1, 2016.

1 NEW SECTION. **Sec. 105.** The state treasurer shall transfer all
2 moneys in the aquatic invasive species enforcement account created in
3 RCW 43.43.400 and the aquatic invasive species prevention account
4 created in RCW 77.12.879 to the aquatic invasive species management
5 account created in section 101 of this act.

6 **Sec. 106.** RCW 77.120.110 and 2009 c 333 s 27 are each amended to
7 read as follows:

8 (1) The ballast water and biofouling management account is
9 created in the state treasury. All receipts from legislative
10 appropriations, gifts, grants, donations, penalties, and fees
11 received under this chapter must be deposited into the account.

12 (2) Expenditures from the account may be used only to carry out
13 the purposes of this chapter. However, penalties may not be used for
14 the salaries of permanent department employees.

15 (3) Moneys in the account may be spent only after appropriation.
16 ((Expenditures from the account may be used only to carry out the
17 purposes of this chapter or support the goals of this chapter through
18 research and monitoring except:

19 (a) Expenditures may not be used for the salaries of permanent
20 department employees; and

21 (b) Penalties deposited into the account may be used only to
22 support basic and applied research and carry out education and
23 outreach related to the state's ballast water management.))

24 NEW SECTION. **Sec. 107.** RCW 77.12.879 (Aquatic invasive species
25 prevention account) and 2014 c 202 s 309 & 2013 c 307 s 1 are each
26 repealed.

27 **PART TWO**

28 **AQUATIC INVASIVE SPECIES MANAGEMENT—AQUATIC INVASIVE SPECIES, BALLAST**
29 **WATER, AND BIOFOULING PROGRAM FUNDING**

30 **Sec. 201.** RCW 82.16.020 and 2015 3rd sp.s. c 6 s 703 are each
31 amended to read as follows:

32 (1) There is levied and collected from every person a tax for the
33 act or privilege of engaging within this state in any one or more of
34 the businesses herein mentioned. The tax is equal to the gross income
35 of the business, multiplied by the rate set out after the business,
36 as follows:

1 (a) Express, sewerage collection, and telegraph businesses: Three
2 and six-tenths percent;

3 (b) Light and power business: Three and sixty-two one-hundredths
4 percent;

5 (c) Gas distribution business: Three and six-tenths percent;

6 (d) Urban transportation business: Six-tenths of one percent;

7 (e) Vessels under sixty-five feet in length, except tugboats,
8 operating upon the waters within the state: Six-tenths of one
9 percent;

10 (f) Motor transportation, railroad, railroad car, and tugboat
11 businesses, and all public service businesses other than ones
12 mentioned above: One and eight-tenths of one percent;

13 (g) Water distribution business: Four and seven-tenths percent;

14 (h) Log transportation business: One and twenty-eight one-
15 hundredths percent. The reduced rate established in this subsection
16 (1)(h) is not subject to the ten-year expiration provision in RCW
17 82.32.805(1)(a).

18 (2) An additional tax is imposed equal to the rate specified in
19 RCW 82.02.030 multiplied by the tax payable under subsection (1) of
20 this section.

21 (3) Twenty percent of the moneys collected under subsection (1)
22 of this section on water distribution businesses and sixty percent of
23 the moneys collected under subsection (1) of this section on sewerage
24 collection businesses must be deposited in the education legacy trust
25 account created in RCW 83.100.230 from July 1, 2013, through June 30,
26 2019, and thereafter in the public works assistance account created
27 in RCW 43.155.050.

28 (4) A portion of the moneys collected under subsection (1) of
29 this section on light and power businesses must be deposited into the
30 aquatic invasive species management account created in section 101 of
31 this act, as follows:

32 (a) During the 2017-2019 fiscal biennium, one hundred seventy-six
33 thousandths of one percent;

34 (b) During the 2019-2021 fiscal biennium, four hundred forty-five
35 thousandths of one percent; and

36 (c) Beginning with the 2021-2023 fiscal biennium and every fiscal
37 biennium thereafter, six hundred seventy-three thousandths of one
38 percent.

1 NEW SECTION. **Sec. 202.** A new section is added to chapter 77.135
2 RCW to read as follows:

3 (1) The department may issue aquatic invasive species prevention
4 permits to operators of vessels and aquatic conveyances.

5 (2) A person must obtain a Washington state aquatic invasive
6 species prevention permit for each seaplane, commercial vessel, or
7 vessel registered in another state, before placing or operating such
8 a vessel or seaplane on any water body in the state.

9 (3) The valid aquatic invasive species prevention permit must be
10 present and readily available for inspection by a fish and wildlife
11 officer or ex officio fish and wildlife officer at the location where
12 the vessel or seaplane is placed or operated.

13 (4) Aquatic invasive species prevention permits for conveyances
14 listed in subsection (2) of this section are not transferable.

15 NEW SECTION. **Sec. 203.** A new section is added to chapter 77.135
16 RCW to read as follows:

17 (1) The department may issue aquatic invasive species prevention
18 permits to commercial transporters of vessels and aquatic
19 conveyances.

20 (2) A person must obtain a Washington state aquatic invasive
21 species prevention permit before commercially transporting into or
22 through the state one or more of the following conveyances that have
23 previously been placed or operated in the waters of any state or
24 country: (a) A small vessel; (b) a registered vessel; (c) a seaplane;
25 or (d) a commercial vessel.

26 (3) The valid aquatic invasive species prevention permit must be
27 present and readily available for inspection upon request by a fish
28 and wildlife officer or ex officio fish and wildlife officer at any
29 location where the listed conveyance is associated with the transport
30 vehicle.

31 (4) The aquatic invasive species prevention permit is
32 transferable between vehicles and vehicle operators of the same
33 business used to commercially transport aquatic conveyances but a
34 separate permit is required for each vehicle operator commercially
35 transporting aquatic conveyances at any given time.

36 (5) An aquatic invasive species prevention permit is not required
37 to commercially transport new conveyances if the vehicle operator has
38 documentation present and readily available proving all conveyances

1 originated from the manufacturer or vendor and the conveyances have
2 never been placed or operated in waters of any state or country.

3 NEW SECTION. **Sec. 204.** A new section is added to chapter 77.135
4 RCW to read as follows:

5 (1) Washington state aquatic invasive species prevention permits
6 are valid for one year beginning from the date that the permit is
7 marked for activation unless otherwise directed by the department.
8 The permits must be made available for purchase throughout the year
9 through the department's automated licensing system consistent with
10 RCW 77.32.050.

11 (2) The aquatic invasive species prevention permit fee for a
12 nonresident registered vessel, seaplane, or commercial vessel as
13 required under section 202 of this act is twenty dollars.

14 (3) The aquatic invasive species prevention permit fee for a
15 person commercially transporting a small vessel, registered vessel,
16 seaplane, or commercial vessel as required under section 203 of this
17 act is twenty dollars.

18 (4) The department may adopt rules addressing conditions and
19 costs of obtaining duplicate aquatic invasive species prevention
20 permits.

21 (5) Permit fees collected under this section must be deposited
22 into the aquatic invasive species management account created in
23 section 101 of this act.

24 (6) Exemptions for aquatic invasive species prevention permits
25 include:

26 (a) A military vessel or seaplane owned by the United States
27 government; and

28 (b) A vessel clearly identified as being owned by any federal,
29 tribal, state, or local government agency or other public
30 corporations, and used primarily for governmental purposes.

31 (7)(a) The following nonresident aquatic conveyances are exempt
32 from aquatic invasive species prevention permit requirements under
33 this section while placed or operated on shared boundary waters of
34 the state:

35 (i) Vessels having valid state of Idaho or Oregon registration or
36 numbering; and

37 (ii) Seaplanes or commercial vessels having a valid Idaho or
38 Oregon aquatic invasive species prevention or similar permit.

1 (b) The department may adopt by rule a regional reciprocity
2 process to further exempt aquatic conveyances from permit
3 requirements under this section in part or whole. A reciprocity
4 system may be implemented only where the participating state or
5 country does not require a Washington resident to purchase an
6 equivalent permit.

7 NEW SECTION. **Sec. 205.** A new section is added to chapter 77.120
8 RCW to read as follows:

9 (1) The department or its designee shall collect a vessel fee of
10 one hundred twenty-five dollars from the owner or operator of each
11 vessel covered by this chapter that arrives at a Washington port from
12 a port outside of Washington. The fee may not be assessed on any
13 vessel arriving at a Washington port if that vessel comes directly
14 from another Washington port and during that transit has not first
15 arrived at a port outside Washington or moved outside the United
16 States' exclusive economic zone prior to arrival at the subsequent
17 Washington port.

18 (2) The owner or operator of a vessel subject to a vessel fee
19 under this section must pay the fee within thirty days of receipt of
20 invoice. Failure to pay the vessel fee within the thirty-day period
21 is subject to civil penalties as provided under RCW 77.120.070.

22 (3) The fee and any penalties collected under this section must
23 be deposited into the ballast water and biofouling management account
24 created in RCW 77.120.110.

25 NEW SECTION. **Sec. 206.** A new section is added to chapter 77.120
26 RCW to read as follows:

27 The department may enter into partnerships, contracts, or any
28 other form of agreements with other entities to carry out the intent
29 of this chapter. The department shall ensure that any such entity is
30 registered and licensed to do business in Washington. All agreements
31 must be consistent with existing state laws, agency rules, state
32 water quality standards, and collective bargaining agreements.

33 **PART THREE**
34 **AQUATIC INVASIVE SPECIES MANAGEMENT—OTHER PROVISIONS**

35 NEW SECTION. **Sec. 301.** A new section is added to chapter 77.120
36 RCW to read as follows:

1 (1) The owner or operator of a vessel covered by this chapter is
2 required to ensure that the vessel under their ownership or control
3 does not release biofouling into waters of the state except as
4 authorized by this section.

5 (2) The department may adopt by rule standards and requirements
6 governing the release of biofouling on vessels arriving or moored at
7 a Washington port.

8 (3) The department shall adopt rules under subsection (2) of this
9 section for adoption in consultation with a collaborative forum with
10 advisors from regulated industries and the potentially affected
11 parties including shipping interests, ports, shellfish growers,
12 fisheries, environmental interests, interested citizens who have
13 knowledge of the issues, and appropriate governmental representatives
14 including the United States coast guard and the United States
15 environmental protection agency. The rules must:

16 (a) Ensure that biofouling management poses minimal risk of
17 release of nonindigenous species;

18 (b) Be based on the best available technology that is
19 economically achievable; and

20 (c) Where practical and appropriate, be compatible with standards
21 and requirements set by the United States coast guard, the United
22 States environmental protection agency, or the international maritime
23 organization.

24 NEW SECTION. **Sec. 302.** A new section is added to chapter 77.135
25 RCW to read as follows:

26 (1) Money in the aquatic invasive species management account
27 created in section 101 of this act may be appropriated to the
28 department to establish an aquatic invasive species local management
29 grant program. The department shall enter into agreement with the
30 recreation and conservation office to administer the grant funds or
31 other financial assistance, assist the department in developing grant
32 program policies and funding criteria, and consult with the
33 department prior to awarding grants. Up to one million dollars of
34 revenues collected under RCW 82.16.020 may be expended annually as
35 competitive grants to state agencies, cities, counties, tribes,
36 special purpose districts, academic institutions, and nonprofit
37 groups to:

38 (a) Manage prohibited level 1 or level 2 aquatic species at a
39 local level;

1 (b) Develop rapid response management cooperative agreements for
2 local water bodies;

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

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

7 (2) The department may give preference to projects that have
8 matching funds, provide in-kind services, or maintain or enhance
9 outdoor recreational opportunities.

10 **Sec. 303.** RCW 77.15.160 and 2014 c 202 s 204 and 2014 c 48 s 7
11 are each reenacted and amended to read as follows:

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

14 (1) Fishing and shellfishing infractions:

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

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

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

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

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

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

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

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

37 (ii) In violation of any rule of the department or the department
38 of natural resources regarding seasons, closed areas, closed times,

1 or any other rule addressing the manner or method of taking or
2 possessing seaweed.

3 (f) Unclassified fish or shellfish: Fishing for or taking
4 unclassified fish or shellfish in violation of this title or
5 department rule.

6 (g) Wasting fish or shellfish: Taking or possessing food fish,
7 game fish, or shellfish having a value of less than two hundred fifty
8 dollars and recklessly allowing the fish or shellfish to be wasted.

9 (2) Hunting infractions:

10 (a) Eggs or nests: Maliciously, and without permit authorization,
11 destroying, taking, or harming the eggs or active nests of a wild
12 bird or wild animal not classified as endangered or protected. For
13 purposes of this subsection, "active nests" means nests that are
14 attended by an adult or contain eggs or young.

15 (b) Unclassified wildlife: Hunting for, harassing, or taking
16 unclassified wildlife in violation of this title or department rule.

17 (c) Wasting wildlife: Taking or possessing wildlife classified as
18 game birds and having a value of less than two hundred fifty dollars,
19 and recklessly allowing the game birds to be wasted.

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

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

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

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

31 (3) Trapping, taxidermy, fur dealing, wildlife meat cutting, and
32 wildlife rehabilitator infractions:

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

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

37 (ii) Report information from these records as required by
38 department rule.

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

1 (c) Wildlife rehabilitator's recordkeeping and reporting: If a
2 person is a primary permittee or a subpermittee on a wildlife
3 rehabilitation permit issued by the department, 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 (4)(a) Invasive species management infractions:

8 (i) Out-of-state certification: Entering Washington in possession
9 of an aquatic conveyance that does not meet certificate of inspection
10 requirements as provided under RCW 77.135.100;

11 (ii) Clean and drain requirements: Possessing an aquatic
12 conveyance that does not meet clean and drain requirements under RCW
13 77.135.110;

14 (iii) Clean and drain orders: Possessing an aquatic conveyance
15 and failing to obey a clean and drain order under RCW 77.135.110 or
16 77.135.120; and

17 ~~(iv) ((Transporting aquatic plants: Transporting aquatic plants
18 on any state or public road, including forest roads. However, this
19 subsection does not apply to plants that are:~~

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

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

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

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

32 ~~(E) Being transported in such a way as the commission may
33 otherwise prescribe)) Aquatic invasive species prevention permit
34 requirements: Failing to possess a valid aquatic invasive species
35 prevention permit as required under sections 202, 203, or 204 of this
36 act.~~

37 (b) Unless the context clearly requires otherwise, the
38 definitions in both RCW 77.08.010 and 77.135.010 apply throughout
39 this subsection (4).

40 (5) Other infractions:

1 (a) Contests: Unlawfully conducting, holding, or sponsoring a
2 hunting contest, a fishing contest involving game fish, or a
3 competitive field trial using live wildlife.

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

6 (c) Posting signs: Posting signs preventing hunting or fishing on
7 any land not owned or leased by the person doing the posting, or
8 without the permission of the person who owns, leases, or controls
9 the land posted.

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

- 13 (i) Violates any terms or conditions of the scientific permit; or
14 (ii) Violates any department rule applicable to the issuance or
15 use of scientific permits.

16 **Sec. 304.** RCW 77.120.070 and 2007 c 350 s 12 are each amended to
17 read as follows:

18 (1) The department may establish by rule schedules for any
19 penalty allowed in this chapter. The schedules may provide for the
20 incremental assessment of a penalty based on criteria established by
21 rule.

22 (2) The director or the director's designee may impose a civil
23 penalty or warning for a violation of the requirements of this
24 chapter on the owner or operator in charge of a vessel who fails to
25 comply with the requirements imposed under ((~~RCW 77.120.030 and~~
26 ~~77.120.040~~)) this chapter. The penalty shall not exceed twenty-seven
27 thousand five hundred dollars for each day of a continuing violation.
28 In determining the amount of a civil penalty, the department shall
29 set standards by rule that consider if the violation was intentional,
30 negligent, or without any fault, and shall consider the quality and
31 nature of risks created by the violation. The owner or operator
32 subject to such a penalty may contest the determination by requesting
33 an adjudicative proceeding within twenty days. Any determination not
34 timely contested is final and may be reduced to a judgment
35 enforceable in any court with jurisdiction. If the department
36 prevails using any judicial process to collect a penalty under this
37 section, the department shall also be awarded its costs and
38 reasonable attorneys' fees.

1 (3) The department, in cooperation with the United States coast
2 guard, may enforce the requirements of this chapter.

3 **Sec. 305.** RCW 77.135.010 and 2014 c 202 s 102 are each reenacted
4 and amended to read as follows:

5 The definitions in this section apply throughout this chapter
6 unless the context clearly requires otherwise.

7 (1) "Aquatic conveyance" means transportable personal property
8 having the potential to move an aquatic invasive species from one
9 aquatic environment to another. Aquatic conveyances include but are
10 not limited to (~~watercraft~~) vessels and associated equipment, float
11 planes, construction equipment, fish tanker trucks, hydroelectric and
12 irrigation equipment, personal fishing and hunting gear, and
13 materials used for aquatic habitat mitigation or restoration.

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

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

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

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

31 (a) Visible native and nonnative aquatic animals, plants, or
32 other organisms; and

33 (b) Raw water.

34 (6) "Commercial (~~watercraft~~) vessel" means a management
35 category of aquatic conveyances:

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

1 (b) Not subject to (~~watercraft~~) vessel registration
2 requirements under chapter 88.02 RCW or ballast water requirements
3 under chapter 77.120 RCW.

4 (7) "Cryptogenic species" means a species that scientists cannot
5 commonly agree are native or nonnative or are part of the animal
6 kingdom.

7 (8) "Decontaminate" means, to the extent technically and
8 measurably possible, the application of a treatment to kill, destroy,
9 remove, or otherwise eliminate all known or suspected invasive
10 species carried on or contained within an aquatic conveyance or
11 structural property by use of physical, chemical, or other methods.
12 Decontamination treatments may include drying an aquatic conveyance
13 for a time sufficient to kill aquatic invasive species through
14 desiccation.

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

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

21 (11) "Infested site management" means management actions as
22 provided under RCW 77.135.070 that may include long-term actions to
23 contain, control, or eradicate a prohibited species.

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

28 (13) "Invasive species" means nonnative species of the animal
29 kingdom that are not naturally occurring in Washington for purposes
30 of breeding, resting, or foraging, and that pose an invasive risk of
31 harming or threatening the state's environmental, economic, or human
32 resources. Invasive species include all stages of species development
33 and body parts. They may also include genetically modified or
34 cryptogenic species.

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

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

4 (16) "Possess" means to have authority over the use of an
5 invasive species or use of an aquatic conveyance that may carry or
6 contain an invasive species. For the purposes of this subsection,
7 "authority over" includes the ability to intentionally or
8 unintentionally hold, import, export, transport, purchase, sell,
9 barter, distribute, or propagate an invasive species.

10 (17) "Prohibited species" means a classification category of
11 nonnative species as provided in RCW 77.135.030.

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

13 (19) "Quarantine declaration" means a management action as
14 provided under RCW 77.135.050 involving the prohibition or
15 conditioning of the movement of aquatic conveyances and waters from a
16 place or an area that is likely to contain a prohibited species.

17 (20) "Rapid response" means expedited management actions as
18 provided under RCW 77.135.060 triggered when invasive species are
19 detected, for the time-sensitive purpose of containing or eradicating
20 the species before it spreads or becomes further established.

21 (21) "Raw water" means water from a water body and held on or
22 within property. "Raw water" does not include water from
23 precipitation that is captured in a conveyance, structure, or
24 depression that is not otherwise intended to function as a water
25 body, or water from a potable water supply system, unless the water
26 contains visible aquatic organisms.

27 (22) "Registered (~~watercraft~~) vessel" means a management
28 category of aquatic conveyances required to register as vessels under
29 RCW 88.02.550 or similar requirements for a state other than
30 Washington or a country other than the United States.

31 (23) "Regulated species" means a classification category of
32 nonnative species as provided in RCW 77.135.030.

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

38 (25) "Small (~~watercraft~~) vessel" means a management category of
39 aquatic conveyances including every description of vessel on the

1 water used or capable of being used as a means of transportation on
2 the water, except:

3 ~~(a) ((Including inflatable and hard shell watercraft used or~~
4 ~~capable of being used as a means of transportation on the water, such~~
5 ~~as kayaks, canoes, sailboats, and rafts that:~~

6 ~~(i) Do not meet watercraft registration requirements under~~
7 ~~chapter 88.02 RCW; and~~

8 ~~(ii) Are ten feet or more in length with or without mechanical~~
9 ~~propulsion or less than ten feet in length and fitted with mechanical~~
10 ~~propulsion.~~

11 ~~(b) Excluding nonmotorized aquatic conveyances of any size not~~
12 ~~designed or modified to be used as a means of transportation on the~~
13 ~~water, such as inflatable air mattresses and tubes, beach and water~~
14 ~~toys, surf boards, and paddle boards)) Inner tubes, air mattresses,~~
15 sailboards, and small rafts or flotation devices or toys customarily
16 used by swimmers;

17 (b) Vessels meeting registration requirements under chapter 88.02
18 RCW; and

19 (c) Seaplanes.

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

25 **Sec. 306.** RCW 77.135.160 and 2014 c 202 s 118 are each amended
26 to read as follows:

27 (1) The department may authorize representatives to operate its
28 inspection and decontamination stations and mandatory check stations.
29 Department-authorized representatives may be department volunteers,
30 other law enforcement agencies, or independent businesses.

31 (2) The department must adopt rules governing the types of
32 services that department-authorized representatives may perform under
33 this chapter.

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

37 (4) ~~((Within two years of June 12, 2014,))~~ By December 1, 2018,
38 the department must provide the legislature with recommendations for
39 a fee schedule that department-authorized representatives may charge

1 users whose aquatic conveyances receive inspection and
2 decontamination services.

3 **Sec. 307.** RCW 77.120.010 and 2007 c 350 s 8 are each amended to
4 read as follows:

5 The definitions in this section apply throughout this chapter
6 unless the context clearly requires otherwise.

7 (1) "Ballast tank" means any tank or hold on a vessel used for
8 carrying ballast water, whether or not the tank or hold was designed
9 for that purpose.

10 (2) "Ballast water" means any water and matter taken on board a
11 vessel to control or maintain trim, draft, stability, or stresses of
12 the vessel, without regard to the manner in which it is carried.

13 (3) "Empty/refill exchange" means to pump out, until the tank is
14 empty or as close to empty as the master or operator determines is
15 safe, the ballast water taken on in ports, estuarine, or territorial
16 waters, and then refilling the tank with open sea waters.

17 (4) "Exchange" means to replace the water in a ballast tank using
18 either flow through exchange, empty/refill exchange, or other
19 exchange methodology recommended or required by the United States
20 coast guard.

21 (5) "Flow through exchange" means to flush out ballast water by
22 pumping in midocean water at the bottom of the tank and continuously
23 overflowing the tank from the top until three full volumes of water
24 have been changed to minimize the number of original organisms
25 remaining in the tank.

26 (6) "Nonindigenous species" means any species or other viable
27 biological material that enters an ecosystem beyond its natural
28 range.

29 (7) "Open sea exchange" means an exchange that occurs fifty or
30 more nautical miles offshore. If the United States coast guard
31 requires a vessel to conduct an exchange further offshore, then that
32 distance is the required distance for purposes of compliance with
33 this chapter.

34 (8) "Recognized marine trade association" means those trade
35 associations in Washington state that promote improved ballast water
36 management practices by educating their members on the provisions of
37 this chapter, participating in regional ballast water coordination
38 through the Pacific ballast water group, assisting the department in
39 the collection of ballast water exchange forms, and the monitoring of

1 ballast water. This includes members of the Puget Sound marine
2 committee for Puget Sound and the Columbia river steamship operators
3 association for the Columbia river.

4 (9) "Sediments" means any matter settled out of ballast water
5 within a vessel.

6 (10) "Untreated ballast water" includes exchanged or unexchanged
7 ballast water that has not undergone treatment.

8 (11) "Vessel" means a ship, boat, barge, or other floating craft
9 of three hundred gross tons or more, United States and foreign,
10 carrying, or capable of carrying, ballast water into the coastal
11 waters of the state after operating outside of the coastal waters of
12 the state, except those vessels described in RCW 77.120.020.

13 (12) "Voyage" means any transit by a vessel destined for any
14 Washington port.

15 (13) "Waters of the state" means any surface waters, including
16 internal waters contiguous to state shorelines within the boundaries
17 of the state.

18 (14) "Biofouling" means the accumulation of aquatic organisms on
19 a vessel such as attached or associated mobile microorganisms,
20 plants, and animals on surfaces and structures immersed in or exposed
21 to the aquatic environment.

22 **Sec. 308.** RCW 77.135.110 and 2014 c 202 s 113 are each amended
23 to read as follows:

24 (1) A person in possession of an aquatic conveyance must meet
25 clean and drain requirements after the conveyance's use in or on a
26 water body or property. A certificate of inspection is not needed to
27 meet clean and drain requirements.

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

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

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

35 (3) This section may be enforced immediately on the
36 transportation of aquatic plants by registered (~~watercraft~~)
37 vessels, small (~~watercraft~~) vessels, seaplanes, and commercial
38 (~~watercraft~~) vessels. The department must adopt rules to implement
39 all other aspects of clean and drain requirements, including:

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

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

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

9 **Sec. 309.** RCW 77.135.120 and 2014 c 202 s 114 are each amended
10 to read as follows:

11 (1) The department may establish mandatory check stations to
12 inspect aquatic conveyances for clean and drain requirements and
13 aquatic invasive species. The check stations must be operated by at
14 least one fish and wildlife officer, an ex officio fish and wildlife
15 officer in coordination with the department, or department-authorized
16 representative, and must be plainly marked by signs and operated in a
17 safe manner.

18 (2) Aquatic conveyances required to stop at mandatory check
19 stations include registered (~~watercraft~~) vessels, commercial
20 (~~watercraft~~) vessels, and small (~~watercraft~~) vessels. The
21 department may establish rules governing other types of aquatic
22 conveyances that must stop at mandatory check stations. The rules
23 must provide sufficient guidance so that a person transporting the
24 aquatic conveyance readily understands that he or she is required to
25 stop.

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

28 (a) Stop at the mandatory check station;

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

31 (c) Follow clean and drain orders if clean and drain requirements
32 are not met pursuant to RCW 77.135.110; and

33 (d) Follow decontamination orders pursuant to RCW 77.135.130 if
34 an aquatic invasive species is found.

35 (4) A person who complies with the department directives under
36 this section is exempt from criminal penalties under RCW 77.15.809
37 and 77.15.811, civil penalties under RCW 77.15.160(4), and civil
38 forfeiture under RCW 77.15.070, unless the person has a prior

1 conviction for an invasive species violation within the past five
2 years.

3 NEW SECTION. **Sec. 310.** Section 103 of this act expires July 1,
4 2019.

5 NEW SECTION. **Sec. 311.** Section 104 of this act takes effect
6 July 1, 2019.

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