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ENGROSSED SUBSTITUTE SENATE BILL 5303

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State of Washington

65th Legislature

2017 Regular Session

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

READ FIRST TIME 02/09/17.

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

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

9 **PART ONE**

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

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

14 The aquatic invasive species management account is created in the  
15 state treasury. All receipts directed to the account from RCW  
16 88.02.640 and section 203 of this act, as well as legislative  
17 appropriations, gifts, donations, fees, and penalties received by the  
18 department for aquatic invasive species management, must be deposited  
19 into the account. Moneys in the account may be used only after  
20 appropriation. Expenditures from the account may only be used to

1 implement aquatic invasive species-related provisions under this  
2 title.

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

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

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

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

24 ~~(4))~~ (2) Unless the context clearly requires otherwise, the  
25 definitions in both RCW 77.08.010 and 77.135.010 apply throughout  
26 this section.

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

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

33 FEE	AMOUNT	AUTHORITY	DISTRIBUTION
34 (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 another state, before placing or operating such a vessel or seaplane  
2 on any water body in the state.

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

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

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

11 (1) The department may issue aquatic invasive species prevention  
12 permits to commercial transporters of vessels and aquatic  
13 conveyances.

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

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

25 (4) The aquatic invasive species prevention permit is  
26 transferable between vehicles and vehicle operators of the same  
27 business used to commercially transport aquatic conveyances but a  
28 separate permit is required for each vehicle operator commercially  
29 transporting aquatic conveyances at any given time.

30 (5) An aquatic invasive species prevention permit is not required  
31 to commercially transport new conveyances if the vehicle operator has  
32 documentation present and readily available proving all conveyances  
33 originated from the manufacturer or vendor and the conveyances have  
34 never been placed or operated in waters of any state or country.

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

37 (1) Washington state aquatic invasive species prevention permits  
38 are valid for one year beginning from the date that the permit is

1 marked for activation unless otherwise directed by the department.  
2 The permits must be made available for purchase throughout the year  
3 through the department's automated licensing system consistent with  
4 RCW 77.32.050.

5 (2) The aquatic invasive species prevention permit fee for a  
6 nonresident registered vessel or seaplane as required under section  
7 201 of this act is twenty dollars.

8 (3) The aquatic invasive species prevention permit fee for a  
9 person commercially transporting a small vessel, registered vessel,  
10 seaplane, or commercial vessel as required under section 202 of this  
11 act is twenty dollars.

12 (4) The department may adopt rules addressing conditions and  
13 costs of obtaining duplicate aquatic invasive species prevention  
14 permits.

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

18 (6) Exemptions for aquatic invasive species prevention permits  
19 include:

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

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

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

29 (i) Vessels having valid state of Idaho or Oregon registration or  
30 numbering; and

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

33 (b) The department may adopt by rule a regional reciprocity  
34 process to further exempt aquatic conveyances from permit  
35 requirements under this section in part or whole. A reciprocity  
36 system may be implemented only where the participating state or  
37 country does not require a Washington resident to purchase an  
38 equivalent permit.



1 (1) Money in the aquatic invasive species management account  
2 created in section 101 of this act may be appropriated to the  
3 department to establish an aquatic invasive species local management  
4 grant program. The department shall enter into agreement with the  
5 recreation and conservation office to administer the grant funds or  
6 other financial assistance, assist the department in developing grant  
7 program policies and funding criteria, and consult with the  
8 department prior to awarding grants. State agencies, cities,  
9 counties, tribes, special purpose districts, academic institutions,  
10 and nonprofit groups are eligible for competitive grants to:

11 (a) Manage prohibited level 1 or level 2 aquatic species at a  
12 local level;

13 (b) Develop rapid response management cooperative agreements for  
14 local water bodies;

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

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

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

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

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

26 (1) Fishing and shellfishing infractions:

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

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

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

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

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

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

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

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

10 (ii) In violation of any rule of the department or the department  
11 of natural resources regarding seasons, closed areas, closed times,  
12 or any other rule addressing the manner or method of taking or  
13 possessing seaweed.

14 (f) Unclassified fish or shellfish: Fishing for or taking  
15 unclassified fish or shellfish in violation of this title or  
16 department rule.

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

20 (2) Hunting infractions:

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

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

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

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

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

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

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

4 (3) Trapping, taxidermy, fur dealing, wildlife meat cutting, and  
5 wildlife rehabilitator infractions:

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

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

10 (ii) Report information from these records as required by  
11 department rule.

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

14 (c) Wildlife rehabilitator's recordkeeping and reporting: If a  
15 person is a primary permittee or a subpermittee on a wildlife  
16 rehabilitation permit issued by the department, failing to:

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

18 (ii) Report information from these records as required by  
19 department rule.

20 (4)(a) Invasive species management infractions:

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

24 (ii) Clean and drain requirements: Possessing an aquatic  
25 conveyance that does not meet clean and drain requirements under RCW  
26 77.135.110;

27 (iii) Clean and drain orders: Possessing an aquatic conveyance  
28 and failing to obey a clean and drain order under RCW 77.135.110 or  
29 77.135.120; and

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

33 ~~(A) Being transported to the department or to another destination  
34 designated by the director, in a manner designated by the department,  
35 for purposes of identifying a species or reporting the presence of a  
36 species;~~

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

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

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

7 ~~(E) Being transported in such a way as the commission may~~  
8 ~~otherwise prescribe)) Aquatic invasive species prevention permit~~  
9 ~~requirements: Failing to possess a valid aquatic invasive species~~  
10 ~~prevention permit as required under sections 201, 202, or 203 of this~~  
11 ~~act.~~

12 (b) Unless the context clearly requires otherwise, the  
13 definitions in both RCW 77.08.010 and 77.135.010 apply throughout  
14 this subsection (4).

15 (5) Other infractions:

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

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

21 (c) Posting signs: Posting signs preventing hunting or fishing on  
22 any land not owned or leased by the person doing the posting, or  
23 without the permission of the person who owns, leases, or controls  
24 the land posted.

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

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

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

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

33 (1) The department may establish by rule schedules for any  
34 penalty allowed in this chapter. The schedules may provide for the  
35 incremental assessment of a penalty based on criteria established by  
36 rule.

37 (2) The director or the director's designee may impose a civil  
38 penalty or warning for a violation of the requirements of this  
39 chapter on the owner or operator in charge of a vessel who fails to

1 comply with the requirements imposed under ((RCW 77.120.030 and  
2 77.120.040)) this chapter. The penalty shall not exceed twenty-seven  
3 thousand five hundred dollars for each day of a continuing violation.  
4 In determining the amount of a civil penalty, the department shall  
5 set standards by rule that consider if the violation was intentional,  
6 negligent, or without any fault, and shall consider the quality and  
7 nature of risks created by the violation. The owner or operator  
8 subject to such a penalty may contest the determination by requesting  
9 an adjudicative proceeding within twenty days. Any determination not  
10 timely contested is final and may be reduced to a judgment  
11 enforceable in any court with jurisdiction. If the department  
12 prevails using any judicial process to collect a penalty under this  
13 section, the department shall also be awarded its costs and  
14 reasonable attorneys' fees.

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

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

19 The definitions in this section apply throughout this chapter  
20 unless the context clearly requires otherwise.

21 (1) "Aquatic conveyance" means transportable personal property  
22 having the potential to move an aquatic invasive species from one  
23 aquatic environment to another. Aquatic conveyances include but are  
24 not limited to ((watercraft)) vessels and associated equipment, float  
25 planes, construction equipment, fish tanker trucks, hydroelectric and  
26 irrigation equipment, personal fishing and hunting gear, and  
27 materials used for aquatic habitat mitigation or restoration.

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

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

36 (4) "Certificate of inspection" means a department-approved  
37 document that declares, to the extent technically or measurably  
38 possible, that an aquatic conveyance does not carry or contain an  
39 invasive species. Certification may be in the form of a decal, label,



1 rubber stamp imprint, tag, permit, locking seal, or written  
2 statement.

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

6 (a) Visible native and nonnative aquatic animals, plants, or  
7 other organisms; and

8 (b) Raw water.

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

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

14 (b) Not subject to (~~watercraft~~) vessel registration  
15 requirements under chapter 88.02 RCW or ballast water requirements  
16 under chapter 77.120 RCW.

17 (7) "Cryptogenic species" means a species that scientists cannot  
18 commonly agree are native or nonnative or are part of the animal  
19 kingdom.

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

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

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

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

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

1 (13) "Invasive species" means nonnative species of the animal  
2 kingdom that are not naturally occurring in Washington for purposes  
3 of breeding, resting, or foraging, and that pose an invasive risk of  
4 harming or threatening the state's environmental, economic, or human  
5 resources. Invasive species include all stages of species development  
6 and body parts. They may also include genetically modified or  
7 cryptogenic species.

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

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

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

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

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

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

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

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

38 (22) "Registered (~~watercraft~~) vessel" means a management  
39 category of aquatic conveyances required to register as vessels under

1 RCW 88.02.550 or similar requirements for a state other than  
2 Washington or a country other than the United States.

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

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

10 (25) "Small (~~watercraft~~) vessel" means a management category of  
11 aquatic conveyances including every description of vessel on the  
12 water used or capable of being used as a means of transportation on  
13 the water, except:

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

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

19 (ii) ~~Are ten feet or more in length with or without mechanical~~  
20 ~~propulsion or less than ten feet in length and fitted with mechanical~~  
21 ~~propulsion.~~

22 (b) ~~Excluding nonmotorized aquatic conveyances of any size not~~  
23 ~~designed or modified to be used as a means of transportation on the~~  
24 ~~water, such as inflatable air mattresses and tubes, beach and water~~  
25 ~~toys, surf boards, and paddle boards)) Inner tubes, air mattresses,  
26 sailboards, and small rafts or flotation devices or toys customarily  
27 used by swimmers;~~

28 (b) Vessels meeting registration requirements under chapter 88.02  
29 RCW; and

30 (c) Seaplanes.

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

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

38 (1) The department may authorize representatives to operate its  
39 inspection and decontamination stations and mandatory check stations.

1 Department-authorized representatives may be department volunteers,  
2 other law enforcement agencies, or independent businesses.

3 (2) The department must adopt rules governing the types of  
4 services that department-authorized representatives may perform under  
5 this chapter.

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

9 (4) (~~Within two years of June 12, 2014,~~) By December 1, 2018,  
10 the department must provide the legislature with recommendations for  
11 a fee schedule that department-authorized representatives may charge  
12 users whose aquatic conveyances receive inspection and  
13 decontamination services.

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

16 The definitions in this section apply throughout this chapter  
17 unless the context clearly requires otherwise.

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

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

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

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

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

37 (6) "Nonindigenous species" means any species or other viable  
38 biological material that enters an ecosystem beyond its natural  
39 range.

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

6 (8) "Recognized marine trade association" means those trade  
7 associations in Washington state that promote improved ballast water  
8 management practices by educating their members on the provisions of  
9 this chapter, participating in regional ballast water coordination  
10 through the Pacific ballast water group, assisting the department in  
11 the collection of ballast water exchange forms, and the monitoring of  
12 ballast water. This includes members of the Puget Sound marine  
13 committee for Puget Sound and the Columbia river steamship operators  
14 association for the Columbia river.

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

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

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

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

26 (13) "Waters of the state" means any surface waters, including  
27 internal waters contiguous to state shorelines within the boundaries  
28 of the state.

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

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

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

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

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

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

8 (3) This section may be enforced immediately on the  
9 transportation of aquatic plants by registered ((watercraft))  
10 vessels, small ((watercraft)) vessels, seaplanes, and commercial  
11 ((watercraft)) vessels. The department must adopt rules to implement  
12 all other aspects of clean and drain requirements, including:

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

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

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

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

23 (1) The department may establish mandatory check stations to  
24 inspect aquatic conveyances for clean and drain requirements and  
25 aquatic invasive species. The check stations must be operated by at  
26 least one fish and wildlife officer, an ex officio fish and wildlife  
27 officer in coordination with the department, or department-authorized  
28 representative, and must be plainly marked by signs and operated in a  
29 safe manner.

30 (2) Aquatic conveyances required to stop at mandatory check  
31 stations include registered ((watercraft)) vessels, commercial  
32 ((watercraft)) vessels, and small ((watercraft)) vessels. The  
33 department may establish rules governing other types of aquatic  
34 conveyances that must stop at mandatory check stations. The rules  
35 must provide sufficient guidance so that a person transporting the  
36 aquatic conveyance readily understands that he or she is required to  
37 stop.

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

- 1 (a) Stop at the mandatory check station;  
2 (b) Allow the aquatic conveyance to be inspected for clean and  
3 drain requirements and aquatic invasive species;  
4 (c) Follow clean and drain orders if clean and drain requirements  
5 are not met pursuant to RCW 77.135.110; and  
6 (d) Follow decontamination orders pursuant to RCW 77.135.130 if  
7 an aquatic invasive species is found.  
8 (4) A person who complies with the department directives under  
9 this section is exempt from criminal penalties under RCW 77.15.809  
10 and 77.15.811, civil penalties under RCW 77.15.160(4), and civil  
11 forfeiture under RCW 77.15.070, unless the person has a prior  
12 conviction for an invasive species violation within the past five  
13 years.

14 NEW SECTION. **Sec. 310.** Section 103 of this act expires July 1,  
15 2019.

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

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