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**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, 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<br>32 invasive species<br>33 removal | Subsection (3) of this<br>section | Subsection (3) of this<br>section | Subsection (3) of this<br>section |
| 34 (c) Derelict vessel removal<br>35 surcharge                  | \$1.00                            | Subsection (4) of this<br>section | Subsection (4) of this<br>section |
| 36 (d) Duplicate certificate of<br>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 (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 or vessel registered in  
7 another state, before placing or operating such a vessel or seaplane  
8 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 or seaplane as required under section  
13 202 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 The department may enter into partnerships, contracts, or any  
10 other form of agreements with other entities to carry out the intent  
11 of this chapter. The department shall ensure that any such entity is  
12 registered and licensed to do business in Washington. All agreements  
13 must be consistent with existing state laws, agency rules, state  
14 water quality standards, and collective bargaining agreements.

15 **PART THREE**

16 **AQUATIC INVASIVE SPECIES MANAGEMENT—OTHER PROVISIONS**

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

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

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

26 (3) The department shall adopt rules under subsection (2) of this  
27 section for adoption in consultation with a collaborative forum with  
28 advisors from regulated industries and the potentially affected  
29 parties including shipping interests, ports, shellfish growers,  
30 fisheries, environmental interests, interested citizens who have  
31 knowledge of the issues, and appropriate governmental representatives  
32 including the United States coast guard and the United States  
33 environmental protection agency. The rules must:

34 (a) Ensure that biofouling management poses minimal risk of  
35 release of nonindigenous species;

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

1 (c) Where practical and appropriate, be compatible with standards  
2 and requirements set by the United States coast guard, the United  
3 States environmental protection agency, or the international maritime  
4 organization.

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

7 (1) Money in the aquatic invasive species management account  
8 created in section 101 of this act may be appropriated to the  
9 department to establish an aquatic invasive species local management  
10 grant program. The department shall enter into agreement with the  
11 recreation and conservation office to administer the grant funds or  
12 other financial assistance, assist the department in developing grant  
13 program policies and funding criteria, and consult with the  
14 department prior to awarding grants. Up to one million dollars of  
15 revenues collected under RCW 82.16.020 may be expended annually as  
16 competitive grants to state agencies, cities, counties, tribes,  
17 special purpose districts, academic institutions, and nonprofit  
18 groups to:

19 (a) Manage prohibited level 1 or level 2 aquatic species at a  
20 local level;

21 (b) Develop rapid response management cooperative agreements for  
22 local water bodies;

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

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

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

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

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

34 (1) Fishing and shellfishing infractions:

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

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

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

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

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

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

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

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

21 (ii) In violation of any rule of the department or the department  
22 of natural resources regarding seasons, closed areas, closed times,  
23 or any other rule addressing the manner or method of taking or  
24 possessing seaweed.

25 (f) Unclassified fish or shellfish: Fishing for or taking  
26 unclassified fish or shellfish in violation of this title or  
27 department rule.

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

31 (2) Hunting infractions:

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

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

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

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

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

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

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

15 (3) Trapping, taxidermy, fur dealing, wildlife meat cutting, and  
16 wildlife rehabilitator infractions:

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

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

21 (ii) Report information from these records as required by  
22 department rule.

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

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

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

29 (ii) Report information from these records as required by  
30 department rule.

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

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

35 (ii) Clean and drain requirements: Possessing an aquatic  
36 conveyance that does not meet clean and drain requirements under RCW  
37 77.135.110;

38 (iii) Clean and drain orders: Possessing an aquatic conveyance  
39 and failing to obey a clean and drain order under RCW 77.135.110 or  
40 77.135.120; and

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

4       ~~(A) Being transported to the department or to another destination~~  
5 ~~designated by the director, in a manner designated by the department,~~  
6 ~~for purposes of identifying a species or reporting the presence of a~~  
7 ~~species;~~

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

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

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

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

21       (b) Unless the context clearly requires otherwise, the  
22 definitions in both RCW 77.08.010 and 77.135.010 apply throughout  
23 this subsection (4).

24       (5) Other infractions:

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

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

30       (c) Posting signs: Posting signs preventing hunting or fishing on  
31 any land not owned or leased by the person doing the posting, or  
32 without the permission of the person who owns, leases, or controls  
33 the land posted.

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

37       (i) Violates any terms or conditions of the scientific permit; or  
38       (ii) Violates any department rule applicable to the issuance or  
39 use of scientific permits.



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

3       (1) The department may establish by rule schedules for any  
4 penalty allowed in this chapter. The schedules may provide for the  
5 incremental assessment of a penalty based on criteria established by  
6 rule.

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

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

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

28       The definitions in this section apply throughout this chapter  
29 unless the context clearly requires otherwise.

30       (1) "Aquatic conveyance" means transportable personal property  
31 having the potential to move an aquatic invasive species from one  
32 aquatic environment to another. Aquatic conveyances include but are  
33 not limited to ((watercraft)) vessels and associated equipment, float  
34 planes, construction equipment, fish tanker trucks, hydroelectric and  
35 irrigation equipment, personal fishing and hunting gear, and  
36 materials used for aquatic habitat mitigation or restoration.

37       (2) "Aquatic invasive species" means an invasive species of the  
38 animal kingdom with a life cycle that is at least partly dependent

1 upon fresh, brackish, or marine waters. Examples include nutria,  
2 waterfowl, amphibians, fish, and shellfish.

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

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

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

16 (a) Visible native and nonnative aquatic animals, plants, or  
17 other organisms; and

18 (b) Raw water.

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

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

24 (b) Not subject to (~~watercraft~~) vessel registration  
25 requirements under chapter 88.02 RCW or ballast water requirements  
26 under chapter 77.120 RCW.

27 (7) "Cryptogenic species" means a species that scientists cannot  
28 commonly agree are native or nonnative or are part of the animal  
29 kingdom.

30 (8) "Decontaminate" means, to the extent technically and  
31 measurably possible, the application of a treatment to kill, destroy,  
32 remove, or otherwise eliminate all known or suspected invasive  
33 species carried on or contained within an aquatic conveyance or  
34 structural property by use of physical, chemical, or other methods.  
35 Decontamination treatments may include drying an aquatic conveyance  
36 for a time sufficient to kill aquatic invasive species through  
37 desiccation.

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

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

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

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

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

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

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

26 (16) "Possess" means to have authority over the use of an  
27 invasive species or use of an aquatic conveyance that may carry or  
28 contain an invasive species. For the purposes of this subsection,  
29 "authority over" includes the ability to intentionally or  
30 unintentionally hold, import, export, transport, purchase, sell,  
31 barter, distribute, or propagate an invasive species.

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

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

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

39 (20) "Rapid response" means expedited management actions as  
40 provided under RCW 77.135.060 triggered when invasive species are

1 detected, for the time-sensitive purpose of containing or eradicating  
2 the species before it spreads or becomes further established.

3 (21) "Raw water" means water from a water body and held on or  
4 within property. "Raw water" does not include water from  
5 precipitation that is captured in a conveyance, structure, or  
6 depression that is not otherwise intended to function as a water  
7 body, or water from a potable water supply system, unless the water  
8 contains visible aquatic organisms.

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

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

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

20 (25) "Small (~~watercraft~~) vessel" means a management category of  
21 aquatic conveyances including every description of vessel on the  
22 water used or capable of being used as a means of transportation on  
23 the water, except:

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

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

29 (ii) ~~Are ten feet or more in length with or without mechanical~~  
30 ~~propulsion or less than ten feet in length and fitted with mechanical~~  
31 ~~propulsion.~~

32 (b) ~~Excluding nonmotorized aquatic conveyances of any size not~~  
33 ~~designed or modified to be used as a means of transportation on the~~  
34 ~~water, such as inflatable air mattresses and tubes, beach and water~~  
35 ~~toys, surf boards, and paddle boards)) Inner tubes, air mattresses,  
36 sailboards, and small rafts or flotation devices or toys customarily  
37 used by swimmers;~~

38 (b) Vessels meeting registration requirements under chapter 88.02  
39 RCW; and

40 (c) Seaplanes.

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

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

8 (1) The department may authorize representatives to operate its  
9 inspection and decontamination stations and mandatory check stations.  
10 Department-authorized representatives may be department volunteers,  
11 other law enforcement agencies, or independent businesses.

12 (2) The department must adopt rules governing the types of  
13 services that department-authorized representatives may perform under  
14 this chapter.

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

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

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

25 The definitions in this section apply throughout this chapter  
26 unless the context clearly requires otherwise.

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

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

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

37 (4) "Exchange" means to replace the water in a ballast tank using  
38 either flow through exchange, empty/refill exchange, or other

1 exchange methodology recommended or required by the United States  
2 coast guard.

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

8 (6) "Nonindigenous species" means any species or other viable  
9 biological material that enters an ecosystem beyond its natural  
10 range.

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

16 (8) "Recognized marine trade association" means those trade  
17 associations in Washington state that promote improved ballast water  
18 management practices by educating their members on the provisions of  
19 this chapter, participating in regional ballast water coordination  
20 through the Pacific ballast water group, assisting the department in  
21 the collection of ballast water exchange forms, and the monitoring of  
22 ballast water. This includes members of the Puget Sound marine  
23 committee for Puget Sound and the Columbia river steamship operators  
24 association for the Columbia river.

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

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

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

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

36 (13) "Waters of the state" means any surface waters, including  
37 internal waters contiguous to state shorelines within the boundaries  
38 of the state.

39 (14) "Biofouling" means the accumulation of aquatic organisms on  
40 a vessel such as attached or associated mobile microorganisms,

1 plants, and animals on surfaces and structures immersed in or exposed  
2 to the aquatic environment.

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

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

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

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

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

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

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

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

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

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

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

1 (2) Aquatic conveyances required to stop at mandatory check  
2 stations include registered ((watercraft)) vessels, commercial  
3 ((watercraft)) vessels, and small ((watercraft)) vessels. The  
4 department may establish rules governing other types of aquatic  
5 conveyances that must stop at mandatory check stations. The rules  
6 must provide sufficient guidance so that a person transporting the  
7 aquatic conveyance readily understands that he or she is required to  
8 stop.

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

11 (a) Stop at the mandatory check station;

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

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

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

18 (4) A person who complies with the department directives under  
19 this section is exempt from criminal penalties under RCW 77.15.809  
20 and 77.15.811, civil penalties under RCW 77.15.160(4), and civil  
21 forfeiture under RCW 77.15.070, unless the person has a prior  
22 conviction for an invasive species violation within the past five  
23 years.

24 NEW SECTION. **Sec. 310.** Section 103 of this act expires July 1,  
25 2019.

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

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