

RCW 77.15.809 Unlawful use of invasive species in the second degree—Penalty. (1) A person is guilty of unlawful use of invasive species in the second degree if the person:

(a) Fails to stop at a mandatory check station or to return to the mandatory check station for inspection if directed to do so by a fish and wildlife officer or ex officio fish and wildlife officer;

(b) Fails to allow an aquatic conveyance stopped at a mandatory check station to be inspected for clean and drain requirements or aquatic invasive species;

(c) Fails to comply with a decontamination order;

(d) Possesses, except in the case of trafficking, a prohibited level 1 or level 2 species without department authorization, a permit, or as otherwise provided by rule;

(e) Possesses, introduces on or into a water body or property, or traffics in a prohibited level 3 species without department authorization, a permit, or as otherwise provided by rule;

(f) Introduces on or into a water body or property a regulated type A, type B, or type C species without department authorization, a permit, or as otherwise provided by rule;

(g) Fails to readily and clearly identify in writing by taxonomic species name or subspecies name a regulated type B species used for commercial purposes; or

(h) Knowingly violates a quarantine declaration under RCW 77.135.050.

(2) A violation of subsection (1) of this section is a gross misdemeanor. In addition to criminal penalties, a court may order the person to pay all costs in capturing, killing, or controlling the invasive species, including its progeny. This subsection does not affect the authority of the department to bring a separate civil action to recover habitat restoration costs necessitated by the person's unlawful use of invasive species.

(3) This section does not apply to:

(a) A person who complies with the department directives pursuant to RCW 77.135.120 for mandatory check stations. Such a person is exempt from criminal penalties under this section or RCW 77.15.811, and forfeiture under this chapter, unless the person has a prior conviction under those sections within the past five years;

(b) A person who possesses an aquatic invasive species, if the person is in the process of:

(i) Removing it from the aquatic conveyance in a manner specified by the department; or

(ii) Releasing it if caught while fishing and immediately returning it to the water body from which it came;

(c) Possessing or introducing nonnative aquatic animal species by ballast water held or discharged by vessels regulated under chapter 77.120 RCW; or

(d) Possessing or introducing nonnative aquatic animal species through private sector shellfish aquaculture operations, transfers, or conveyances regulated under chapter 77.115 RCW.

(4) Unless the context clearly requires otherwise, the definitions in both RCW 77.08.010 and 77.135.010 apply throughout this section. [2014 c 202 § 205.]

Findings—2014 c 202: See note following RCW 77.135.010.