
SUBSTITUTE HOUSE BILL 2058

State of Washington

56th Legislature

1999 Regular Session

By House Committee on Natural Resources (originally sponsored by Representatives Regala, Linville, Rockefeller, Anderson, Eickmeyer, Stensen, Doumit, Buck, Hatfield, Kessler and Haigh)

Read first time 03/02/1999.

1 AN ACT Relating to aquatic nuisance species; amending RCW 77.12.020
2 and 77.15.250; adding a new chapter to Title 77 RCW; creating new
3 sections; and prescribing penalties.

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

5 NEW SECTION. **Sec. 1.** Population increases, more rapid means of
6 transportation, and other factors have contributed to a dramatic
7 increase in the accidental introduction of nonnative species throughout
8 the world. The indiscriminate introduction of new species can have
9 unpredictable and often negative impacts on native species. Aquatic
10 species that are especially destructive when introduced into new
11 ecosystems are referred to as aquatic nuisance species.

12 The legislature finds that aquatic nuisance species are a serious
13 problem that threaten the ecological integrity of the state's marine
14 and freshwater resources. Aquatic nuisance species also have a
15 significant impact on economic, social, and public health conditions
16 within our state. These species have few natural controls in their new
17 habitat and can spread rapidly, destroying native plant and animal
18 habitat, reducing recreational opportunities, lowering property values,
19 clogging waterways, and impacting irrigation and power generation.

1 The large number of governmental entities that now fund and
2 regulate programs to manage aquatic nuisance species have diverse
3 interests and limited jurisdictions that cannot adequately address the
4 wide ranging impacts of aquatic nuisance species in Washington.

5 The legislature intends to minimize the environmental and economic
6 risks from aquatic nuisance species by improving cooperation between
7 the various state and federal agencies responsible for controlling
8 aquatic nuisance species, and by authorizing specific programs that
9 either prevent the introduction of these species or aid in eliminating
10 infestations.

11 NEW SECTION. **Sec. 2.** The definitions in this section apply
12 throughout this chapter unless the context clearly requires otherwise.

13 (1) "Committee" means the aquatic nuisance species coordination
14 committee.

15 (2) "Aquatic nuisance species" means a nonnative aquatic plant or
16 animal species that threatens the diversity or abundance of native
17 species, the ecological stability of infested waters, or commercial,
18 agricultural, or recreational activities dependent on such waters, and
19 consists of those:

20 (a) Aquatic plants listed by the state noxious weed control board
21 as noxious weeds as provided in RCW 17.10.080; and

22 (b) Aquatic animals classified as aquatic nuisance species by the
23 commission as provided in RCW 77.12.020.

24 NEW SECTION. **Sec. 3.** (1) The aquatic nuisance species
25 coordination committee is created for the purpose of fostering state,
26 federal, tribal, and private cooperation on aquatic nuisance species
27 issues. The committee shall strive to minimize the accidental
28 introduction of nonnative aquatic species and give special emphasis to
29 preventing the introduction and spread of aquatic nuisance species.

30 (2) The committee shall consist of representatives from each of the
31 following state agencies: Department of fish and wildlife, department
32 of ecology, department of agriculture, department of natural resources,
33 state patrol, state noxious weed control board, and Washington sea
34 grant program. United States fish and wildlife service, United States
35 environmental protection agency, and one person representing federally
36 recognized tribes of Washington will also be invited to participate in
37 the committee. The representative from the department of fish and

1 wildlife shall chair the committee. The committee chair may invite the
2 participation of other state, federal, tribal, or private organizations
3 on either an ad hoc or continuing basis, if it will better accomplish
4 the purposes of the committee.

5 (3) The committee has the following duties:

6 (a) Periodically revise the state of Washington aquatic nuisance
7 species management plan, originally published in June 1998;

8 (b) Prepare a zebra mussel containment plan for quickly detecting
9 and responding to an introduction of zebra mussels in a manner that
10 will eradicate the mussels or control their spread if eradication is
11 not possible;

12 (c) Prepare a programmatic environmental impact statement for the
13 zebra mussel containment plan and for other aquatic nuisance species as
14 needed;

15 (d) Design a monitoring program for early detection of zebra mussel
16 introductions into Washington waters;

17 (e) Design early response plans for other aquatic nuisance species,
18 as necessary;

19 (f) Design an on-site inspection program of aquatic plant dealers;

20 (g) Facilitate solutions for preventing the introduction of
21 nonnative aquatic species from the ballast water of ships;

22 (h) Design a zebra mussel inspection program for large boats being
23 hauled by commercial carriers into the state;

24 (i) Design a voluntary inspection program for small boats entering
25 Washington;

26 (j) Design an aquatic species education program, including
27 educational materials;

28 (k) Establish a list of advisors and seek their recommendations
29 regarding these duties;

30 (l) Advise member agencies on the use of funds available for
31 aquatic nuisance species activities;

32 (m) Prepare a report to the legislature making recommendations for
33 better accomplishing the purposes of this chapter and listing the
34 committee's accomplishments by December 1, 2001;

35 (n) Investigate and make recommendations regarding methods for
36 better integrating the management of terrestrial and aquatic nuisance
37 species.

38 (4) The committee shall accomplish its duties through the authority
39 and cooperation of its member agencies. Implementation of all plans

1 and programs developed by the committee shall be through the member
2 agencies and other cooperating organizations. Funding requests for
3 aquatic nuisance species activities shall be submitted through the
4 member agencies as a part of their individual budget requests.

5 NEW SECTION. **Sec. 4.** The department of ecology shall investigate
6 the risk of introductions of nonnative aquatic species through the
7 discharge of ballast water from ships and recommend state actions to
8 respond to this risk. In conducting this investigation, the director
9 of ecology shall seek the cooperation and participation of
10 organizations representing the maritime community for both Puget Sound
11 and the Columbia river. The recommendations shall be submitted in a
12 report to the aquatic nuisance species coordination committee and to
13 the appropriate legislative committees no later than December 1, 2000.

14 NEW SECTION. **Sec. 5.** The department of ecology may inspect
15 vessels and sample ballast water to determine whether the vessel's
16 ballast water poses a measurable risk of introducing nonnative aquatic
17 species into the waters of the state. Ballast water sampling and
18 determinations of measurable risk shall be based on accepted scientific
19 practice and parameters.

20 NEW SECTION. **Sec. 6.** The department of agriculture may inspect
21 licensed nurseries dealing in aquatic plants for the purpose of
22 detecting aquatic nuisance species and preventing the introduction of
23 these species into Washington waters. If aquatic nuisance species are
24 detected, the department of agriculture may quarantine the infested
25 aquatic plants, and require the nursery to decontaminate or dispose of
26 the plants in a manner that will prevent their introduction into
27 Washington waters.

28 NEW SECTION. **Sec. 7.** The state patrol may inspect boats entering
29 the state at a port of entry for the purpose of detecting zebra mussels
30 and preventing the introduction of this species into Washington waters.
31 If zebra mussels are detected, the state patrol may prohibit the
32 further movement of the boat until the carrier agrees to an approved
33 method of decontaminating the boat. The department of fish and
34 wildlife shall adopt rules defining approved decontamination methods.

1 **Sec. 8.** RCW 77.12.020 and 1994 c 264 s 53 are each amended to read
2 as follows:

3 (1) The director shall investigate the habits and distribution of
4 the various species of wildlife native to or adaptable to the habitats
5 of the state. The commission shall determine whether a species should
6 be managed by the department and, if so, classify it under this
7 section.

8 (2) The commission may classify by rule wild animals as game
9 animals and game animals as fur-bearing animals.

10 (3) The commission may classify by rule wild birds as game birds or
11 predatory birds. All wild birds not otherwise classified are protected
12 wildlife.

13 (4) In addition to those species listed in RCW 77.08.020, the
14 commission may classify by rule as game fish other species of the class
15 Osteichthyes that are commonly found in fresh water except those
16 classified as food fish by the director.

17 (5) The director may recommend to the commission that a species of
18 wildlife should not be hunted or fished. The commission may designate
19 species of wildlife as protected.

20 (6) If the director determines that a species of wildlife is
21 seriously threatened with extinction in the state of Washington, the
22 director may request its designation as an endangered species. The
23 commission may designate an endangered species.

24 (7) If the director determines that a species of the animal
25 kingdom, not native to Washington, is dangerous to the environment or
26 wildlife of the state, the director may request its designation as
27 deleterious exotic wildlife. The commission may designate deleterious
28 exotic wildlife.

29 (8) If the director determines that an aquatic animal species, not
30 native to Washington, threatens the diversity or abundance of native
31 species, the ecological stability of infested waters, or commercial,
32 agricultural, or recreational activities dependent on such waters, the
33 director may request its designation as an aquatic nuisance species.
34 The commission may designate aquatic nuisance species.

35 **Sec. 9.** RCW 77.15.250 and 1998 c 190 s 31 are each amended to read
36 as follows:

37 (1)(a) A person is guilty of unlawfully releasing, planting, or
38 placing fish or wildlife if the person knowingly releases, plants, or

1 places live (~~(fish,)~~) wildlife(~~(, or aquatic plants)~~) within the state,
2 or the person knowingly releases, plants, or places live fish,
3 shellfish, or aquatic plants into waters of the state, except ((for))
4 that this subsection does not apply to (i) a release of game fish into
5 private waters for which a game fish stocking permit has been obtained;
6 (ii) the planting of native aquatic plants in waters where they are
7 naturally found, or any habitat restoration or protection project using
8 native aquatic plants; or (iii) the planting of food fish or shellfish
9 by permit or rule of the commission or that are private sector cultured
10 aquatic products otherwise allowed by law.

11 (b) A violation of this subsection is a gross misdemeanor. In
12 addition, the department (~~(shall)~~) may order the person to pay all
13 costs the department incurred in capturing, killing, or controlling the
14 fish or wildlife released or its progeny. Any such order may be
15 reviewed and enforced as provided in Title 34 RCW. This does not
16 affect the existing authority of the department to bring a separate
17 civil action to recover costs of capturing, killing, controlling the
18 fish or wildlife released or their progeny, or restoration of habitat
19 necessitated by the unlawful release.

20 (2)(a) A person is guilty of unlawful release of deleterious exotic
21 wildlife or aquatic nuisance species if the person knowingly releases,
22 plants, or places live fish or wildlife within the state and such fish
23 or wildlife has been classified as deleterious exotic wildlife or as an
24 aquatic nuisance species by rule of the commission.

25 (b) A violation of this subsection is a class C felony. In
26 addition, the department (~~(shall also)~~) may order the person to pay all
27 costs the department incurred in capturing, killing, or controlling the
28 fish or wildlife released or its progeny. Any such order may be
29 reviewed and enforced as provided in Title 34 RCW. This does not
30 affect the existing authority of the department to bring a separate
31 civil action to recover costs of capturing, killing, controlling the
32 fish or wildlife released or their progeny, or restoration of habitat
33 necessitated by the unlawful release.

34 (3)(a) A person is guilty of unlawful use or possession of
35 deleterious exotic wildlife or aquatic nuisance species if the person
36 knowingly violates any rule of the commission regarding the possession,
37 transportation, holding, reporting, or any other action or restriction
38 regarding a species classified as deleterious exotic wildlife or as an
39 aquatic nuisance species.

1 (b) A violation of this subsection is a gross misdemeanor. This
2 does not affect the existing authority of the department to bring a
3 separate civil action to compel compliance with any rule concerning
4 deleterious exotic wildlife or aquatic nuisance species.

5 NEW SECTION. Sec. 10. Sections 2, 3, and 5 through 7 of this act
6 constitute a new chapter in Title 77 RCW.

7 NEW SECTION. Sec. 11. (1) If specific funding for the purposes of
8 section 4 of this act, referencing section 4 of this act by section
9 number, is not provided by June 30, 1999, in the omnibus appropriations
10 act, then section 4 of this act is null and void.

11 (2) If specific funding for the purposes of section 5 of this act,
12 referencing section 5 of this act by section number, is not provided by
13 June 30, 1999, in the omnibus appropriations act, then section 5 of
14 this act is null and void.

15 (3) If specific funding for the purposes of section 6 of this act,
16 referencing section 6 of this act by section number, is not provided by
17 June 30, 1999, in the omnibus appropriations act, then section 6 of
18 this act is null and void.

19 (4) If specific funding for the purposes of section 7 of this act,
20 referencing section 7 of this act by section number, is not provided by
21 June 30, 1999, in the omnibus appropriations act, then section 7 of
22 this act is null and void.

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