
HOUSE BILL 2458

State of Washington

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2014 Regular Session

By Representatives MacEwen, Lytton, Chandler, Stanford, Blake, Buys, Schmick, Takko, Kretz, Nealey, Morris, Warnick, Tharinger, Springer, Ryu, Tarleton, Fagan, and Van De Wege; by request of Department of Fish and Wildlife

Read first time 01/17/14. Referred to Committee on Agriculture & Natural Resources.

1 AN ACT Relating to invasive species; amending RCW 77.15.160,
2 77.12.020, 77.15.080, 77.15.290, 43.06.010, 43.43.400, and 10.31.100;
3 reenacting and amending RCW 77.08.010; adding new sections to chapter
4 77.15 RCW; adding a new chapter to Title 77 RCW; creating a new
5 section; repealing RCW 77.12.875, 77.12.878, 77.12.879, 77.12.882,
6 77.15.253, 77.15.293, 77.60.110, and 77.60.120; and prescribing
7 penalties.

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

9 **PART 1**

10 **INVASIVE SPECIES--MANAGEMENT**

11 NEW SECTION. **Sec. 101.** The legislature finds that:

12 (1) The state's fish, wildlife, and habitat are exceptionally
13 valuable environmental resources for the state's citizens.

14 (2) The state's fish, wildlife, and habitat also provide
15 exceptionally valuable economic, cultural, and recreational resources.
16 These include hydroelectric power, agriculture, forests, water
17 supplies, commercial and recreational fisheries, aquaculture, and
18 public access to outdoor recreational opportunities.

1 (3) Invasive species pose a grave threat to these environmental and
2 economic resources, especially to salmon recovery and state and
3 federally listed threatened and endangered species. Because of the
4 significant harm invasive species can cause, invasive species
5 constitute a public nuisance.

6 (4) If allowed to become established, invasive species can threaten
7 human health and cause environmental and economic disasters affecting
8 not only our state, but other states and nations.

9 (5) The risk of invasive species spreading into Washington
10 increases as travel and commerce grows in volume and efficiency. The
11 risk of the invasive species becoming established and causing harm
12 increases as climate change makes Washington more hospitable to
13 invasive species.

14 (6) Prevention of invasive species is a cost-effective, successful,
15 and proven management strategy. Prevention is the state's highest
16 management priority with an emphasis on education and outreach,
17 inspections, and rapid response.

18 (7) The integrated management of invasive species through pathways
19 regulated by the department is critical to preventing the introduction
20 and spread of a broad range of such species, including plants,
21 diseases, and parasites.

22 (8) Washington's citizens must work together to protect the state
23 from invasive species.

24 (9) Public and private partnerships, cooperative agreements, and
25 compacts are important for preventing new arrivals and managing
26 existing populations of invasive species, and coordinating these
27 actions on local, state, national, and international levels.

28 (10) The department requires authority for this mission to
29 effectively counter the unpredictable nature of invasive species'
30 introductions and spread, enable the utilization of new advances in
31 invasive ecology science, and implement applicable techniques and
32 technology to address invasive species.

33 (11) An integrated management approach provides the best way for
34 the state to manage invasive species and includes opportunities for
35 creating an informed public, encouraging public involvement, and
36 striving for local, regional, national, and international cooperation
37 and consistency on management standards. An integrated management

1 approach also applies sound science to minimize the chance that
2 invasive species used for beneficial purposes will result in
3 environmental harm.

4 (12) This chapter provides authority for the department to
5 effectively address invasive species using an integrated management
6 approach.

7 (13) The department of fish and wildlife currently has sufficient
8 statutory authority to effectively address invasive species risks posed
9 through discharge of ballast water under chapter 77.120 RCW and by
10 private sector shellfish aquaculture operations regulated under chapter
11 77.115 RCW. The programs developed by the department under these
12 chapters embody the principles of prevention as the highest priority,
13 integrated management of pathways, public-private partnerships, clean
14 and drain principles, and rapid response capabilities.

15 NEW SECTION. **Sec. 102.** The definitions in this section apply
16 throughout this chapter unless the context clearly requires otherwise.

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

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

28 (3) "Certificate of inspection" means a department-approved
29 document that declares, to the extent technically or measurably
30 possible, that an aquatic conveyance does not carry or contain an
31 invasive species. Certification may be in the form of a decal, label,
32 rubber stamp imprint, tag, permit, locking seal, or written statement.

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

36 (a) Visible native and nonnative aquatic animals, plants, or other
37 organisms; and

1 (b) Raw water.

2 (5) "Commercial watercraft" means a management category of aquatic
3 conveyances:

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

7 (b) Not subject to watercraft registration requirements under
8 chapter 88.02 RCW or ballast water requirements under chapter 77.120
9 RCW.

10 (6) "Cryptogenic species" means a species that scientists cannot
11 commonly agree are native or nonnative or are part of the animal
12 kingdom.

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

20 (8) "Detect" means the verification of invasive species' presence
21 as defined by the department.

22 (9) "Eradicate" means, to the extent technically and measurably
23 possible, to kill, destroy, remove, or otherwise eliminate an invasive
24 species from a water body or property using physical, chemical, or
25 other methods.

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

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

37 (12) "Invasive species council" means the Washington invasive

1 species council established in RCW 79A.25.310 or a similar
2 collaborative state agency forum. The term includes the council and
3 all of its officers, employees, agents, and contractors.

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

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

13 (15) "Prohibited species" means a classification category of
14 nonnative species as provided in section 104 of this act.

15 (16) "Property" means both real and personal property.

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

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

26 (19) "Regulated species" means a classification category of
27 nonnative species as provided in section 104 of this act.

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

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

36 (22) "Small watercraft" means a management category of aquatic
37 conveyances:

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

4 (i) Do not meet watercraft registration requirements under chapter
5 88.02 RCW; and

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

9 (b) Excluding nonmotorized aquatic conveyances of any size not
10 designed or modified to be used as a means of transportation on the
11 water, such as inflatable air mattresses and tubes, beach and water
12 toys, surf boards, and paddle boards.

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

18 NEW SECTION. **Sec. 103.** (1) The department is the lead agency for
19 managing invasive species of the animal kingdom statewide. This lead
20 responsibility excludes pests, domesticated animals, or livestock
21 managed by the department of agriculture under Titles 15, 16, and 17
22 RCW, forest invasive insect and disease species managed by the
23 department of natural resources under Title 76 RCW, and mosquito and
24 algae control and shellfish sanitation managed by the department of
25 health under Titles 69, 70, and 90 RCW.

26 (2) Subject to the availability of funding for these specific
27 purposes, the department may:

28 (a) Develop and implement integrated invasive species management
29 actions and programs authorized by this chapter, including rapid
30 response, early detection and monitoring, prevention, containment,
31 control, eradication, and enforcement;

32 (b) Establish and maintain an invasive species outreach and
33 education program, in coordination with the Washington invasive species
34 council, that covers public, commercial, and professional pathways and
35 interests;

36 (c) Align management classifications, standards, and enforcement

1 provisions by rule with regional, national, and international standards
2 and enforcement provisions;

3 (d) Manage invasive species to support the preservation of native
4 species, salmon recovery, and the overall protection of threatened or
5 endangered species;

6 (e) Participate in local, state, regional, national, and
7 international efforts regarding invasive species to support the intent
8 of this chapter;

9 (f) Provide technical assistance or other support to tribes,
10 federal agencies, local governments, and private groups to promote an
11 informed public and assist the department in meeting the intent of this
12 chapter;

13 (g) Enter into partnerships, cooperative agreements, and state or
14 interstate compacts as necessary to accomplish the intent of this
15 chapter;

16 (h) Research and develop invasive species management tools,
17 including standard methods for decontaminating aquatic conveyances and
18 controlling or eradicating invasive species from water bodies and
19 properties;

20 (i) Post invasive species signs and information at port districts,
21 privately or publicly owned marinas, state parks, and all boat launches
22 owned or leased by state agencies or political subdivisions; and

23 (j) Adopt rules as needed to implement the provisions of this
24 chapter.

25 (3) Where there is reasonable cause to believe that invasive
26 species are present, the department may enter upon a property for the
27 purpose of administering this chapter, including inspecting and
28 decontaminating aquatic conveyances, collecting invasive species
29 samples, and containing, controlling, or eradicating invasive species.
30 Prior to entering the property, the department shall make a reasonable
31 attempt to notify the owner of the property as to the purpose and need
32 for the entry. Should the department be denied access to any property
33 where access is sought for the purposes set forth in this chapter, the
34 department may apply to any court of competent jurisdiction for a
35 search warrant authorizing access to the property for these purposes.
36 Upon such an application, the court may issue the search warrant for
37 the purposes requested.

1 (4) The department may delegate selected and clearly identified
2 elements of its authorities and duties to another agency of the state
3 with appropriate expertise or administrative capacity upon cooperative
4 agreement with that agency. This delegation may include provisions of
5 funding for implementation of the delegations. The department retains
6 primary authority and responsibility for all requirements of this
7 chapter unless otherwise directed in this chapter.

8 (5) This chapter does not apply to the possession or introduction
9 of nonnative aquatic animal species by:

10 (a) Ballast water held or discharged by vessels regulated under
11 chapter 77.120 RCW; or

12 (b) Private sector aquaculture operations, transfers, or
13 conveyances regulated under chapter 77.115 RCW.

14 (6) This chapter does not preempt or replace other department
15 species classification systems or other management requirements under
16 this title. However, the department must streamline invasive species
17 requirements under this chapter into existing permits and cooperative
18 agreements as possible.

19 NEW SECTION. **Sec. 104.** (1) The department, in consultation with
20 the invasive species council, may classify or reclassify and list by
21 rule nonnative aquatic animal species as prohibited level 1, level 2,
22 or level 3, based on the degree of invasive risk, the type of
23 management action required, and resources available to conduct the
24 management action.

25 (a) Species classified as prohibited level 1 pose a high invasive
26 risk and are a priority for prevention and expedited rapid response
27 management actions.

28 (b) Species classified as prohibited level 2 pose a high invasive
29 risk and are a priority for long-term infested site management actions.

30 (c) Species classified as prohibited level 3 pose a moderate to
31 high invasive risk and may be appropriate for prevention, rapid
32 response, or other prohibited species management plan actions by the
33 department, another agency, a local government, tribes, or the public.

34 (2) The department, in consultation with the invasive species
35 council, may classify and list by rule regulated type A species. This
36 classification is used for nonnative aquatic animal species that pose
37 a low to moderate invasive risk that can be managed based on intended

1 use or geographic scope of introduction, have a beneficial use, and are
2 a priority for department-led or department-approved management of the
3 species' beneficial use and invasive risks.

4 (3) Nonnative aquatic animal species not classified as prohibited
5 level 1, level 2, or level 3 under subsection (1) of this section, or
6 as regulated type A species under subsection (2) of this section, are
7 automatically managed statewide as regulated type B species or
8 regulated type C species and do not require listing by rule.

9 (a) Species managed as regulated type B pose a low or unknown
10 invasive risk and are possessed for personal or commercial purposes,
11 such as for aquariums, live food markets, or as nondomesticated pets.

12 (b) Species managed as regulated type C pose a low or unknown
13 invasive risk and include all other species that do not meet the
14 criteria for management as a regulated type B invasive species.

15 (4) Classification of prohibited and regulated species:

16 (a) May be by individual species or larger taxonomic groups up to
17 the family name;

18 (b) Must align, as practical and appropriate, with regional and
19 national classification levels;

20 (c) Must be statewide unless otherwise designated by a water body,
21 property, or other geographic region or area; and

22 (d) May define general possession and introduction conditions
23 acceptable under department authorization, a permit, or as otherwise
24 provided by rule.

25 (5) Prior to or at the time of classifying species by rule as
26 prohibited or regulated under subsections (1) and (2) of this section,
27 the department, in consultation with the invasive species council, must
28 adopt rules establishing standards for determining invasive risk levels
29 and criteria for determining beneficial use that take into
30 consideration environmental impacts, and especially effects on the
31 preservation of native species, salmon recovery, and threatened or
32 endangered species.

33 NEW SECTION. **Sec. 105.** (1) Until the department adopts rules
34 classifying species pursuant to chapter 77.--- RCW (the new chapter
35 created in section 122 of this act), species and classifications
36 identified in this section are automatically managed as follows:

1 (a) Zebra mussels (*Dreissena polymorpha*), quagga mussels (*Dreissena*
2 *rostriformis bugensis*), European green crab (*Carcinus maenas*), and all
3 members of the genus *Eriocheir* (including Chinese mitten crab), all
4 members of the walking catfish family (*Clariidae*), all members of the
5 snakehead family (*Channidae*), silver carp (*Hypophthalmichthys*
6 *molitrix*), largescale silver carp (*Hypophthalmichthys harmandi*), black
7 carp (*Mylopharyngodon piceus*), and bighead carp (*Hypophthalmichthys*
8 *nobilis*) are prohibited level 1 species statewide;

9 (b) Prohibited aquatic animal species classified under WAC 220-12-
10 090(1), in effect on July 1, 2014, except those as noted in this
11 subsection are prohibited level 3 species statewide;

12 (c) Regulated aquatic animal species classified under WAC 220-12-
13 090(2), in effect on July 1, 2014, are regulated type A species
14 statewide; and

15 (d) Nonnative aquatic animal species classified as game fish under
16 WAC 232-12-019, in effect on July 1, 2014, or food fish under WAC 220-
17 12-010, in effect on July 1, 2014, are regulated type A species
18 statewide.

19 (2) The department, in consultation with the invasive species
20 council, may change these classifications by rule.

21 NEW SECTION. **Sec. 106.** (1) Prohibited level 1, level 2, and level
22 3 species may not be possessed, introduced on or into a water body or
23 property, or trafficked, without department authorization, a permit, or
24 as otherwise provided by rule.

25 (2) Regulated type A, type B, and type C species may not be
26 introduced on or into a water body or property without department
27 authorization, a permit, or as otherwise provided by rule.

28 (3) Regulated type B species, when being actively used for
29 commercial purposes, must be readily and clearly identified in writing
30 by taxonomic species name or subspecies name to distinguish the
31 subspecies from another prohibited species or a regulated type A
32 species. Nothing in this section precludes using additional
33 descriptive language or trade names to describe regulated type B
34 species as long as the labeling requirements of this section are met.

35 NEW SECTION. **Sec. 107.** (1) If the department determines it is
36 necessary to protect the environmental, economic, or human health

1 interests of the state from the threat of a prohibited level 1 or level
2 2 species, the department may declare a quarantine against a water
3 body, property, or region within the state. The department may
4 prohibit or condition the movement of aquatic conveyances and waters
5 from such a quarantined place or area that are likely to contain a
6 prohibited species.

7 (2) A quarantine declaration under this section may be implemented
8 through rapid response management actions under section 108 of this act
9 and infested site management actions under section 109 of this act in
10 a manner and for a duration necessary to protect the interests of the
11 state from the threat of a prohibited level 1 or level 2 species. A
12 quarantine declaration must include:

13 (a) The reasons for the action including the prohibited level 1 or
14 level 2 species triggering the quarantine;

15 (b) The boundaries of the area affected;

16 (c) The action timeline;

17 (d) Types of aquatic conveyances and waters affected by the
18 quarantine and any prohibition or conditions on the movement of those
19 aquatic conveyances and waters from the quarantine area; and

20 (e) Inspection and decontamination requirements for aquatic
21 conveyances.

22 NEW SECTION. **Sec. 108.** (1) The department may implement rapid
23 response management actions where a prohibited level 1 species is
24 detected in or on a water body or property. Rapid response management
25 actions may include a quarantine declaration and expedited actions to
26 contain, control, or eradicate the prohibited species. Rapid response
27 management actions must be terminated by the department when it
28 determines that the targeted prohibited level 1 species are:

29 (a) Eradicated;

30 (b) Contained or controlled without need for further management
31 actions;

32 (c) Reclassified for that water body; or

33 (d) Being managed under infested site management actions pursuant
34 to section 109 of this act.

35 (2) If a rapid response management action exceeds seven days, the
36 department may implement an incident command system for rapid response
37 management including scope, duration, and types of actions and to

1 support mutual assistance and cooperation between the department and
2 other affected state and federal agencies, tribes, local governments,
3 and private water body or property owners. The purpose of this system
4 is to coordinate a rapid, effective, and efficient response to contain,
5 control, and eradicate if feasible, a prohibited level 1 species.
6 Mutual assistance and coordination by other state agencies is
7 especially important to assist the department in expediting necessary
8 state and federal environmental permits.

9 (3) The department may enter into cooperative agreements with
10 national, regional, state, and local rapid response management action
11 partners to establish incident command system structures, secure or
12 prepare submission-ready environmental permits, and identify mutual
13 assistance commitments in preparation for potential future actions.

14 (4) The department may perform simulated rapid response exercises,
15 testing, or other training activities to prepare for future rapid
16 response management actions.

17 NEW SECTION. **Sec. 109.** (1) The department may implement infested
18 site management actions where a prohibited level 2 species is detected
19 in or on a water body or property. Infested site management actions
20 may include a quarantine declaration and long-term actions to contain,
21 control, or eradicate the prohibited species. Infested site management
22 actions must be terminated by the department when it determines that
23 the targeted prohibited level 2 species are:

- 24 (a) Eradicated;
- 25 (b) Contained or controlled without need for further management
26 actions; or
- 27 (c) Reclassified for that water body.

28 (2) The department must consult with affected state and federal
29 agencies, tribes, local governments, and private water body or property
30 owners prior to implementing infested site management actions. The
31 purpose of the consultation is to support mutual assistance and
32 cooperation in providing an effective and efficient response to
33 contain, control, and eradicate, if feasible, a prohibited level 2
34 species.

35 (3) The department may enter into cooperative agreements with
36 national, regional, state, and local infested site management action

1 partners to establish management responsibilities, secure or prepare
2 submission-ready environmental permits, and identify mutual assistance
3 commitments.

4 (4) The department, in consultation with the invasive species
5 council, may establish rules governing when the department may require
6 the owners of a water body or property with a prohibited level 2
7 species to develop and implement infested site management actions.

8 NEW SECTION. **Sec. 110.** (1) To the extent possible, the
9 department's rapid response management actions under section 108 of
10 this act and infested site management actions under section 109 of this
11 act must be implemented in a manner best suited to contain, control,
12 and eradicate prohibited level 1 and level 2 species while protecting
13 human safety, minimizing adverse environmental impacts to a water body
14 or property, and minimizing adverse economic impacts to owners of an
15 affected water body or property.

16 (2) The department is the lead agency for rapid response and
17 infested site management actions. Where the infested water body is
18 subject to tribal, federal, or other sovereign jurisdiction, the
19 department:

20 (a) Must consult with appropriate federal agencies, tribal
21 governments, other states, and Canadian government entities to develop
22 and implement coordinated management actions on affected water bodies
23 under shared jurisdiction;

24 (b) May assist in infested site management actions where these
25 actions may prevent the spread of prohibited species into state water
26 bodies; and

27 (c) May assist other states and Canadian government entities, in
28 the Columbia river basin, in management actions on affected water
29 bodies outside of the state where these actions may prevent the spread
30 of the species into state water bodies.

31 (3) The department must provide notice of rapid response and
32 infested site management actions to owners of an affected water body or
33 property. Notice may be provided by any reasonable means, such as in
34 person, by United States postal service, by publication in a local
35 newspaper, by electronic publication including social media or postings
36 on the department's public web site, or by posting signs at the water
37 body. The department must provide updates to owners of an affected

1 water body or property based on management action type as follows:
2 Every seven days for rapid response management actions; on an annual
3 basis for the duration of an infested site management action; and a
4 final update at the conclusion of either management action.

5 (4) The department must publicly list those water bodies or
6 portions of water bodies in which a prohibited level 1 or level 2
7 species has been detected. The department may list those areas in
8 which a prohibited level 3 species has been detected.

9 (5) When posting signs at a water body or property where a
10 prohibited species has been detected, the department must consult with
11 owners of the affected water body or property regarding placement of
12 those signs.

13 NEW SECTION. **Sec. 111.** (1) If the director finds that there
14 exists an imminent danger of a prohibited level 1 or level 2 species
15 detection that seriously endangers or threatens the environment,
16 economy, human health, or well-being of the state of Washington, the
17 director must ask the governor to order, under RCW 43.06.010(14),
18 emergency measures to prevent or abate the prohibited species. The
19 director's findings must contain an evaluation of the effect of the
20 emergency measures on environmental factors such as fish listed under
21 the endangered species act, economic factors such as public and private
22 access, human health factors such as water quality, or well-being
23 factors such as cultural resources.

24 (2) If an emergency is declared pursuant to RCW 43.06.010(14), the
25 director may consult with the invasive species council to advise the
26 governor on emergency measures necessary under RCW 43.06.010(14) and
27 this section, and make subsequent recommendations to the governor. The
28 invasive species council must involve owners of the affected water body
29 or property, state and local governments, federal agencies, tribes,
30 public health interests, technical service providers, and environmental
31 organizations, as appropriate.

32 (3) Upon the governor's approval of emergency measures, the
33 director may implement these measures to prevent, contain, control, or
34 eradicate invasive species that are the subject of the emergency order,
35 notwithstanding the provisions of chapter 15.58 or 17.21 RCW or any
36 other statute. These measures, after evaluation of all other

1 alternatives, may include the surface and aerial application of
2 pesticides.

3 (4) The director must continually evaluate the effects of the
4 emergency measures and report these to the governor at intervals of not
5 less than ten days. The director must immediately advise the governor
6 if the director finds that the emergency no longer exists or if certain
7 emergency measures should be discontinued.

8 NEW SECTION. **Sec. 112.** (1) A person in possession of an aquatic
9 conveyance who enters Washington by road, air, or water is required to
10 have a certificate of inspection. A person must provide this
11 certificate of inspection upon request by a fish and wildlife officer
12 or ex officio fish and wildlife officer.

13 (2) The department must adopt rules to implement this section
14 including:

15 (a) Types of aquatic conveyances required to have a certificate of
16 inspection;

17 (b) Allowable certificate of inspection forms including passport
18 type systems and integration with existing similar permits;

19 (c) Situations when authorization can be obtained for transporting
20 an aquatic conveyance not meeting inspection requirements to a
21 specified location within the state where certificate of inspection
22 requirements can be provided; and

23 (d) Situations where aquatic conveyances are using shared boundary
24 waters of the state, such as portions of the Columbia river, lake
25 Osoyoos, and the Puget Sound.

26 NEW SECTION. **Sec. 113.** (1) A person in possession of an aquatic
27 conveyance must meet clean and drain requirements after the
28 conveyance's use in or on a water body or property. A certificate of
29 inspection is not needed to meet clean and drain requirements.

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

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

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

1 (3) This section may be enforced immediately on registered
2 watercraft, small watercraft, seaplanes, and commercial watercraft
3 transporting aquatic plants. The department must adopt rules to
4 implement all other aspects of clean and drain requirements, including:

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

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

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

11 NEW SECTION. **Sec. 114.** (1) The department may establish mandatory
12 check stations to inspect aquatic conveyances for clean and drain
13 requirements and aquatic invasive species. The check stations must be
14 operated by at least one fish and wildlife officer, an ex officio fish
15 and wildlife officer in coordination with the department, or
16 department-authorized representative, and must be plainly marked by
17 signs and operated in a safe manner.

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

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

27 (a) Stop at the mandatory check station;

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

30 (c) Follow clean and drain orders if clean and drain requirements
31 are not met pursuant to section 113 of this act; and

32 (d) Follow decontamination orders pursuant to section 115 of this
33 act if an aquatic invasive species is found.

34 (4) A person who complies with the department directives under this
35 section is exempt from criminal penalties under sections 205 and 206 of
36 this act, civil penalties under RCW 77.15.160(4), and civil forfeiture

1 under RCW 77.15.070, unless the person has a prior conviction for an
2 invasive species violation within the past five years.

3 NEW SECTION. **Sec. 115.** (1) Upon discovery of an aquatic
4 conveyance that carries or contains an aquatic invasive species without
5 department authorization, a permit, or as otherwise provided by rule,
6 a fish and wildlife officer or ex officio fish and wildlife officer may
7 issue a decontamination order:

8 (a) Requiring decontamination at the discovery site, if the
9 situation presents a low risk of aquatic invasive species introduction,
10 and sufficient department resources are available at the discovery
11 site;

12 (b) Prohibiting the launch of the aquatic conveyance in a water
13 body until decontamination is completed and certified, if the situation
14 presents a low risk of aquatic invasive species introduction, and
15 sufficient department resources are not available at the discovery
16 site;

17 (c) Requiring immediate transport of the conveyance to an approved
18 decontamination station, and prohibiting the launch of the conveyance
19 in a water body until decontamination is completed and certified, if
20 the situation presents a moderate risk of aquatic invasive species
21 introduction, and sufficient department resources are not available at
22 the discovery site; or

23 (d) Seizing and transporting the aquatic conveyance to an approved
24 decontamination station until decontamination is completed and
25 certified, if the situation presents a high risk of aquatic invasive
26 species introduction, and sufficient department resources are not
27 available at the discovery site.

28 (2) The person possessing the aquatic conveyance that is subject to
29 orders issued under subsection (1)(b) through (d) of this section must
30 bear any costs for seizure, transportation, or decontamination.

31 (3) Orders issued under subsection (1)(b) through (d) of this
32 section must be in writing and must include notice of the opportunity
33 for a hearing pursuant to section 116 of this act to determine the
34 validity of the orders.

35 (4) If a decontamination order is issued under subsection (1)(d) of
36 this section, the department may seize the aquatic conveyance for two
37 working days or a reasonable additional period of time thereafter as

1 needed to meet decontamination requirements. The decontamination
2 period must be based on factors including conveyance size and
3 complexity, type and number of aquatic invasive species present, and
4 decontamination station resource capacity.

5 (5) If an aquatic conveyance is subject to forfeiture under RCW
6 77.15.070, the timelines and other provisions under that section apply
7 to the seizure.

8 (6) Upon decontamination and issuing a certificate of inspection,
9 an aquatic conveyance must be released to the person in possession of
10 the aquatic conveyance at the time the decontamination order was
11 issued, or to the owner of the aquatic conveyance.

12 NEW SECTION. **Sec. 116.** (1) A person subject to a rapid response
13 management action under section 108 of this act, an infested site
14 management action under section 109 of this act, or a decontamination
15 order under section 115 of this act may contest the validity of the
16 department's actions by requesting a hearing in writing within twenty
17 days of the department's actions. Hearings must be conducted pursuant
18 to chapter 34.05 RCW and the burden of demonstrating the invalidity of
19 agency action is on the party asserting invalidity. The hearing may be
20 conducted by the director or the director's designee and may occur
21 telephonically.

22 (2) A hearing on a decontamination order is limited to the issues
23 of whether decontamination was necessary and the reasonableness of
24 costs assessed for any seizure, transportation, and decontamination.
25 If the person in possession of the aquatic conveyance that was
26 decontaminated prevails at the hearing, the person is entitled to
27 reimbursement by the department for any costs assessed by the
28 department or decontamination station operator for the seizure,
29 transportation, and decontamination. If the department prevails at the
30 hearing, the department is not responsible for and may not reimburse
31 any costs.

32 NEW SECTION. **Sec. 117.** (1) The department may operate aquatic
33 conveyance inspection and decontamination stations statewide for
34 voluntary use by the public or for mandatory use where directed by the
35 department to meet inspection and decontamination requirements of this
36 chapter. Decontamination stations can be part of or separate from

1 inspection stations. Inspection and decontamination stations are
2 separate from commercial vehicle weigh stations operated by the
3 Washington state patrol.

4 (2) Inspection station staff must inspect aquatic conveyances to
5 determine whether the conveyances carry or contain aquatic invasive
6 species. If an aquatic conveyance is free of aquatic invasive species,
7 then inspection station staff must issue a certificate of inspection.
8 A certificate of inspection is valid until the conveyance's next use in
9 a water body.

10 (3) If a conveyance carries or contains aquatic invasive species,
11 then inspection station staff must require the conveyance's
12 decontamination before issuing a certificate of inspection. The
13 certificate of inspection is valid until the conveyance's next use in
14 a water body.

15 (4) The department must identify, in a way that is readily
16 available to the public, the location and contact information for
17 inspection and decontamination stations.

18 (5) The department must adopt by rule standards for inspection and
19 decontamination that, where practical and appropriate, align with
20 regional, national, and international standards.

21 NEW SECTION. **Sec. 118.** (1) The department may authorize
22 representatives to operate its inspection and decontamination stations
23 and mandatory check stations. Department-authorized representatives
24 may be department volunteers, other law enforcement agencies, or
25 independent businesses.

26 (2) The department must adopt rules governing the types of services
27 that department-authorized representatives may perform under this
28 chapter.

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

32 (4) Within two years of the effective date of this section, the
33 department must provide the legislature with recommendations for a fee
34 schedule that department-authorized representatives may charge for
35 inspection and decontamination services.

1 (2) Unless the context clearly requires otherwise, the definitions
2 in both RCW 77.08.010 and section 102 of this act apply throughout this
3 section.

4 NEW SECTION. **Sec. 202.** A new section is added to chapter 77.15
5 RCW to read as follows:

6 (1) Upon a showing of probable cause that there has been a
7 violation of an invasive species law of the state of Washington, or
8 upon a showing of probable cause to believe that evidence of such a
9 violation may be found at a place, a court must issue a search warrant
10 or arrest warrant. Fish and wildlife officers or ex officio fish and
11 wildlife officers may execute any such search or arrest warrant
12 reasonably necessary to carry out their duties under this title with
13 regard to an invasive species law and may seize invasive species or any
14 evidence of a crime and the fruits or instrumentalities of a crime as
15 provided by warrant. The court may have property opened or entered and
16 the contents examined.

17 (2) Seizure of property as evidence of a crime does not preclude
18 seizure of the property for forfeiture as authorized by law.

19 NEW SECTION. **Sec. 203.** A new section is added to chapter 77.15
20 RCW to read as follows:

21 (1) Upon a showing of probable cause that a water body or property
22 has an invasive species in or on it, and the owner refuses permission
23 to allow inspection of the water body or property, a court in the
24 county in which the water body or property is located may, upon the
25 request of the director or the director's designee, issue a warrant to
26 the director or the director's designee authorizing the taking of
27 specimens of invasive species, general inspection of the property or
28 water body, and the performance of containment, eradication, or control
29 work.

30 (2) Application for issuance, execution, and return of the warrant
31 authorized by this section must be in accordance with the applicable
32 rules of the superior courts or the district courts.

33 (3) Any person who improperly prevents or threatens to prevent
34 inspection of a water body or property as authorized in this section is
35 guilty of unlawful interfering in department operations under RCW
36 77.15.360.

1 **Sec. 204.** RCW 77.15.160 and 2013 C 307 S 2 are each amended to
2 read as follows:

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

5 (1) Fishing and shellfishing infractions:

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

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

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

14 (d) Recreational fishing: Fishing for fish or shellfish and,
15 without yet possessing fish or shellfish, the person:

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

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

24 (e) Seaweed: Taking, possessing, or harvesting less than two times
25 the daily possession limit of seaweed:

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

28 (ii) In violation of any rule of the department or the department
29 of natural resources regarding seasons, closed areas, closed times, or
30 any other rule addressing the manner or method of taking, possessing,
31 or harvesting of seaweed.

32 (f) Unclassified fish or shellfish: Taking unclassified fish or
33 shellfish in violation of any department rule by killing, fishing,
34 taking, holding, possessing, or maliciously injuring or harming fish or
35 shellfish that is not classified as game fish, food fish, shellfish,
36 protected fish, or endangered fish.

37 (g) Wasting fish or shellfish: Killing, taking, or possessing fish

1 or shellfish having a value of less than two hundred fifty dollars and
2 allowing the fish or shellfish to be wasted.

3 (2) Hunting infractions:

4 (a) Eggs or nests: Maliciously, and without permit authorization,
5 destroying, taking, or harming the eggs or active nests of a wild bird
6 not classified as endangered or protected. For purposes of this
7 subsection, "active nests" means nests that contain eggs or fledglings.

8 (b) Unclassified wildlife: Taking unclassified wildlife in
9 violation of any department rule by killing, hunting, taking, holding,
10 possessing, or maliciously injuring or harming wildlife that is not
11 classified as big game, game animals, game birds, protected wildlife,
12 or endangered wildlife.

13 (c) Wasting wildlife: Killing, taking, or possessing wildlife that
14 is not classified as big game and has a value of less than two hundred
15 fifty dollars, and allowing the wildlife to be wasted.

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

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

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

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

27 (3) Trapping, taxidermy, fur dealing, and wildlife meat cutting
28 infractions:

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

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

33 (ii) Report information from these records as required by
34 department rule.

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

37 (4) ~~((Aquatic invasive species infraction: Entering Washington by
38 road and transporting a recreational or commercial watercraft that has~~

1 ~~been used outside of Washington without meeting documentation~~
2 ~~requirements as provided under RCW 77.12.879.)~~ (a) Invasive species
3 management infractions:

4 (i) Out-of-state certification: Entering Washington in possession
5 of an aquatic conveyance that does not meet certificate of inspection
6 requirements as provided under section 112 of this act;

7 (ii) Clean and drain requirements: Possessing an aquatic
8 conveyance that does not meet clean and drain requirements under
9 section 113 of this act;

10 (iii) Clean and drain orders: Possessing an aquatic conveyance and
11 failing to obey a clean and drain order under section 113 or 114 of
12 this act; and

13 (iv) Transporting aquatic plants: Transporting aquatic plants on
14 any state or public road, including forest roads. However, this
15 subsection does not apply to plants that are:

16 (A) Being transported to the department or to another destination
17 designated by the director, in a manner designated by the department,
18 for purposes of identifying a species or reporting the presence of a
19 species;

20 (B) Legally obtained for aquarium use, wetland or lakeshore
21 restoration, or ornamental purposes;

22 (C) Located within or on a commercial aquatic plant harvester that
23 is being transported to a suitable location to remove aquatic plants;

24 (D) Being transported in a manner that prevents their unintentional
25 dispersal, to a suitable location for disposal, research, or
26 educational purposes; or

27 (E) Being transported in such a way as the commission may otherwise
28 prescribe.

29 (b) Unless the context clearly requires otherwise, the definitions
30 in both RCW 77.08.010 and section 102 of this act apply throughout this
31 subsection (4).

32 (5) Other infractions:

33 (a) Contests: Conducting, holding, or sponsoring a hunting
34 contest, a fishing contest involving game fish, or a competitive field
35 trial using live wildlife.

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

1 (c) Posting signs: Posting signs preventing hunting or fishing on
2 any land not owned or leased by the person doing the posting, or
3 without the permission of the person who owns, leases, or controls the
4 land posted.

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

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

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

11 ~~((e) Transporting aquatic plants: Transporting aquatic plants on
12 any state or public road, including forest roads. However:~~

13 ~~(i) This subsection does not apply to plants that are:~~

14 ~~(A) Being transported to the department or to another destination
15 designated by the director, in a manner designated by the department,
16 for purposes of identifying a species or reporting the presence of a
17 species;~~

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

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

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

25 ~~(E) Being transported in such a way as the commission may otherwise
26 prescribe; and~~

27 ~~(ii) This subsection does not apply to a person who:~~

28 ~~(A) Is stopped at an aquatic invasive species check station and
29 possesses a recreational or commercial watercraft that is contaminated
30 with an aquatic invasive plant species if that person complies with all
31 department directives for the proper decontamination of the watercraft
32 and equipment; or~~

33 ~~(B) Has voluntarily submitted a recreational or commercial
34 watercraft for inspection by the department or its designee and has
35 received a receipt verifying that the watercraft has not been
36 contaminated since its last use.))~~

1 NEW SECTION. **Sec. 205.** A new section is added to chapter 77.15
2 RCW to read as follows:

3 (1) A person is guilty of unlawful use of invasive species in the
4 second degree if the person:

5 (a) Fails to stop if directed to do so by a fish and wildlife
6 officer or ex officio fish and wildlife officer for inspection of an
7 aquatic conveyance if the officer has reasonable suspicion that the
8 aquatic conveyance does not meet clean and drain requirements or
9 carries or contains a prohibited level 1, level 2, or level 3 species
10 or a regulated type A species;

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

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

17 (d) Fails to comply with a decontamination order;

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

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

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

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

30 (i) Fails to comply with a rapid response management action under
31 section 108 of this act; or

32 (j) Fails to comply with an infested site management action under
33 section 109 of this act.

34 (2) A violation of subsection (1) of this section is a gross
35 misdemeanor. In addition to criminal penalties, a court may order the
36 person to pay all costs in capturing, killing, or controlling the
37 invasive species, including its progeny. This subsection does not

1 affect the authority of the department to bring a separate civil action
2 to recover habitat restoration costs necessitated by the person's
3 unlawful use of invasive species.

4 (3) This section does not apply to:

5 (a) A person who complies with the department directives pursuant
6 to section 114 of this act for mandatory check stations. Such a person
7 is exempt from criminal penalties under this section or section 206 of
8 this act, and forfeiture under this chapter, unless the person has a
9 prior conviction under those sections within the past five years;

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

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

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

16 (c) Possessing or introducing nonnative aquatic animal species by
17 ballast water held or discharged by vessels regulated under chapter
18 77.120 RCW; or

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

22 (4) Unless the context clearly requires otherwise, the definitions
23 in both RCW 77.08.010 and section 102 of this act apply throughout this
24 section.

25 NEW SECTION. **Sec. 206.** A new section is added to chapter 77.15
26 RCW to read as follows:

27 (1) A person is guilty of unlawful use of invasive species in the
28 first degree if the person:

29 (a) Traffics or introduces on or into a water body or property a
30 prohibited level 1 or level 2 species without department authorization,
31 a permit, or as otherwise provided by rule; or

32 (b) Commits a subsequent violation of unlawful use of invasive
33 species in the second degree within five years of the date of a prior
34 conviction under section 205 of this act.

35 (2) A violation of this section is a class C felony. In addition
36 to criminal penalties, a court may order the person to pay all costs in
37 managing the invasive species, including the species' progeny. This

1 subsection does not affect the authority of the department to bring a
2 separate civil action to recover habitat restoration costs necessitated
3 by the person's unlawful use of invasive species.

4 (3) This section does not apply to:

5 (a) A person who complies with department directives pursuant to
6 section 114 of this act for mandatory check stations, and who is exempt
7 from criminal penalties under this section and forfeiture under this
8 chapter, unless the person has a prior conviction under this section or
9 section 205 of this act within the past five years; or

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

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

14 (ii) Releasing it if caught while fishing and is immediately
15 returning it to the water body from which it came.

16 (4) Unless the context clearly requires otherwise, the definitions
17 in both RCW 77.08.010 and section 102 of this act apply throughout this
18 section.

19 PART 3

20 INVASIVE SPECIES--TECHNICAL PROVISIONS

21 **Sec. 301.** RCW 77.08.010 and 2012 c 176 s 4 are each reenacted and
22 amended to read as follows:

23 The definitions in this section apply throughout this title or
24 rules adopted under this title unless the context clearly requires
25 otherwise.

26 (1) "Anadromous game fish buyer" means a person who purchases or
27 sells steelhead trout and other anadromous game fish harvested by
28 Indian fishers lawfully exercising fishing rights reserved by federal
29 statute, treaty, or executive order, under conditions prescribed by
30 rule of the director.

31 (2) "Angling gear" means a line attached to a rod and reel capable
32 of being held in hand while landing the fish or a hand-held line
33 operated without rod or reel.

34 (3) (~~"Aquatic invasive species" means any invasive, prohibited,~~
35 ~~regulated, unregulated, or unlisted aquatic animal or plant species as~~

1 ~~defined under subsections (4), (34), (49), (53), (70), and (71) of this~~
2 ~~section, aquatic noxious weeds as defined under RCW 17.26.020(5)(c),~~
3 ~~and aquatic nuisance species as defined under RCW 77.60.130(1).~~

4 ~~(4) "Aquatic plant species" means an emergent, submersed, partially~~
5 ~~submersed, free floating, or floating leaving plant species that grows~~
6 ~~in or near a body of water or wetland.~~

7 ~~(5))~~ "Bag limit" means the maximum number of game animals, game
8 birds, or game fish which may be taken, caught, killed, or possessed by
9 a person, as specified by rule of the commission for a particular
10 period of time, or as to size, sex, or species.

11 ~~((6))~~ (4) "Building" means a private domicile, garage, barn, or
12 public or commercial building.

13 ~~((7))~~ (5) "Closed area" means a place where the hunting of some
14 or all species of wild animals or wild birds is prohibited.

15 ~~((8))~~ (6) "Closed season" means all times, manners of taking, and
16 places or waters other than those established by rule of the commission
17 as an open season. "Closed season" also means all hunting, fishing,
18 taking, or possession of game animals, game birds, game fish, food
19 fish, or shellfish that do not conform to the special restrictions or
20 physical descriptions established by rule of the commission as an open
21 season or that have not otherwise been deemed legal to hunt, fish,
22 take, harvest, or possess by rule of the commission as an open season.

23 ~~((9))~~ (7) "Closed waters" means all or part of a lake, river,
24 stream, or other body of water, where fishing or harvesting is
25 prohibited.

26 ~~((10))~~ (8) "Commercial" means related to or connected with
27 buying, selling, or bartering.

28 ~~((11))~~ (9) "Commission" means the state fish and wildlife
29 commission.

30 ~~((12))~~ (10) "Concurrent waters of the Columbia river" means those
31 waters of the Columbia river that coincide with the Washington-Oregon
32 state boundary.

33 ~~((13))~~ (11) "Contraband" means any property that is unlawful to
34 produce or possess.

35 ~~((14))~~ (12) "Deleterious exotic wildlife" means species of the
36 animal kingdom not native to Washington and designated as dangerous to
37 the environment or wildlife of the state.

1 (~~(15)~~) (13) "Department" means the department of fish and
2 wildlife.

3 (~~(16)~~) (14) "Director" means the director of fish and wildlife.

4 (~~(17)~~) (15) "Endangered species" means wildlife designated by the
5 commission as seriously threatened with extinction.

6 (~~(18)~~) (16) "Ex officio fish and wildlife officer" means:

7 (a) A commissioned officer of a municipal, county, or state agency
8 having as its primary function the enforcement of criminal laws in
9 general, while the officer is acting in the respective jurisdiction of
10 that agency;

11 (b) An officer or special agent commissioned by one of the
12 following: The national marine fisheries service; the Washington state
13 parks and recreation commission; the United States fish and wildlife
14 service; the Washington state department of natural resources; the
15 United States forest service; or the United States parks service, if
16 the agent or officer is in the respective jurisdiction of the primary
17 commissioning agency and is acting under a mutual law enforcement
18 assistance agreement between the department and the primary
19 commissioning agency;

20 (c) A commissioned fish and wildlife peace officer from another
21 state who meets the training standards set by the Washington state
22 criminal justice training commission pursuant to RCW 10.93.090,
23 43.101.080, and 43.101.200, and who is acting under a mutual law
24 enforcement assistance agreement between the department and the primary
25 commissioning agency; or

26 (d) A Washington state tribal police officer who successfully
27 completes the requirements set forth under RCW 43.101.157, is employed
28 by a tribal nation that has complied with RCW 10.92.020(2) (a) and (b),
29 and is acting under a mutual law enforcement assistance agreement
30 between the department and the tribal government.

31 (~~(19)~~) (17) "Fish" includes all species classified as game fish
32 or food fish by statute or rule, as well as all fin fish not currently
33 classified as food fish or game fish if such species exist in state
34 waters. The term "fish" includes all stages of development and the
35 bodily parts of fish species.

36 (~~(20)~~) (18) "Fish and wildlife officer" means a person appointed
37 and commissioned by the director, with authority to enforce this title
38 and rules adopted pursuant to this title, and other statutes as

1 prescribed by the legislature. Fish and wildlife officer includes a
2 person commissioned before June 11, 1998, as a wildlife agent or a
3 fisheries patrol officer.

4 ~~((+21+))~~ (19) "Fish broker" means a person whose business it is to
5 bring a seller of fish and shellfish and a purchaser of those fish and
6 shellfish together.

7 ~~((+22+))~~ (20) "Fish buyer" means a person engaged by a wholesale
8 fish dealer to purchase food fish or shellfish from a licensed
9 commercial fisher.

10 ~~((+23+))~~ (21) "Fishery" means the taking of one or more particular
11 species of fish or shellfish with particular gear in a particular
12 geographical area.

13 ~~((+24+))~~ (22) "Food, food waste, or other substance" includes human
14 and pet food or other waste or garbage that could attract large wild
15 carnivores.

16 ~~((+25+))~~ (23) "Freshwater" means all waters not defined as
17 saltwater including, but not limited to, rivers upstream of the river
18 mouth, lakes, ponds, and reservoirs.

19 ~~((+26+))~~ (24) "Fur-bearing animals" means game animals that shall
20 not be trapped except as authorized by the commission.

21 ~~((+27+))~~ (25) "Fur dealer" means a person who purchases, receives,
22 or resells raw furs for commercial purposes.

23 ~~((+28+))~~ (26) "Game animals" means wild animals that shall not be
24 hunted except as authorized by the commission.

25 ~~((+29+))~~ (27) "Game birds" means wild birds that shall not be
26 hunted except as authorized by the commission.

27 ~~((+30+))~~ (28) "Game farm" means property on which wildlife is held,
28 confined, propagated, hatched, fed, or otherwise raised for commercial
29 purposes, trade, or gift. The term "game farm" does not include
30 publicly owned facilities.

31 ~~((+31+))~~ (29) "Game reserve" means a closed area where hunting for
32 all wild animals and wild birds is prohibited.

33 ~~((+32+))~~ (30) "Illegal items" means those items unlawful to be
34 possessed.

35 ~~((+33+))~~ (31)(a) "Intentionally feed, attempt to feed, or attract"
36 means to purposefully or knowingly provide, leave, or place in, on, or
37 about any land or building any food, food waste, or other substance

1 that attracts or could attract large wild carnivores to that land or
2 building.

3 (b) "Intentionally feed, attempt to feed, or attract" does not
4 include keeping food, food waste, or other substance in an enclosed
5 garbage receptacle or other enclosed container unless specifically
6 directed by a fish and wildlife officer or animal control authority to
7 secure the receptacle or container in another manner.

8 ~~((34) "Invasive species" means a plant species or a nonnative
9 animal species that either:~~

10 ~~(a) Causes or may cause displacement of, or otherwise threatens,
11 native species in their natural communities;~~

12 ~~(b) Threatens or may threaten natural resources or their use in the
13 state;~~

14 ~~(c) Causes or may cause economic damage to commercial or
15 recreational activities that are dependent upon state waters; or~~

16 ~~(d) Threatens or harms human health.~~

17 ~~(35))~~ (32) "Large wild carnivore" includes wild bear, cougar, and
18 wolf.

19 ~~((36))~~ (33) "License year" means the period of time for which a
20 recreational license is valid. The license year begins April 1st, and
21 ends March 31st.

22 ~~((37))~~ (34) "Limited-entry license" means a license subject to a
23 license limitation program established in chapter 77.70 RCW.

24 ~~((38))~~ (35) "Money" means all currency, script, personal checks,
25 money orders, or other negotiable instruments.

26 ~~((39))~~ (36) "Natural person" means a human being.

27 ~~((40))~~ (37)(a) "Negligently feed, attempt to feed, or attract"
28 means to provide, leave, or place in, on, or about any land or building
29 any food, food waste, or other substance that attracts or could attract
30 large wild carnivores to that land or building, without the awareness
31 that a reasonable person in the same situation would have with regard
32 to the likelihood that the food, food waste, or other substance could
33 attract large wild carnivores to the land or building.

34 (b) "Negligently feed, attempt to feed, or attract" does not
35 include keeping food, food waste, or other substance in an enclosed
36 garbage receptacle or other enclosed container unless specifically
37 directed by a fish and wildlife officer or animal control authority to
38 secure the receptacle or container in another manner.

1 ((+41+)) (38) "Nonresident" means a person who has not fulfilled
2 the qualifications of a resident.

3 ((+42+)) (39) "Offshore waters" means marine waters of the Pacific
4 Ocean outside the territorial boundaries of the state, including the
5 marine waters of other states and countries.

6 ((+43+)) (40) "Open season" means those times, manners of taking,
7 and places or waters established by rule of the commission for the
8 lawful hunting, fishing, taking, or possession of game animals, game
9 birds, game fish, food fish, or shellfish that conform to the special
10 restrictions or physical descriptions established by rule of the
11 commission or that have otherwise been deemed legal to hunt, fish,
12 take, harvest, or possess by rule of the commission. "Open season"
13 includes the first and last days of the established time.

14 ((+44+)) (41) "Owner" means the person in whom is vested the
15 ownership dominion, or title of the property.

16 ((+45+)) (42) "Person" means and includes an individual; a
17 corporation; a public or private entity or organization; a local,
18 state, or federal agency; all business organizations, including
19 corporations and partnerships; or a group of two or more individuals
20 acting with a common purpose whether acting in an individual,
21 representative, or official capacity.

22 ((+46+)) (43) "Personal property" or "property" includes both
23 corporeal and incorporeal personal property and includes, among other
24 property, contraband and money.

25 ((+47+)) (44) "Personal use" means for the private use of the
26 individual taking the fish or shellfish and not for sale or barter.

27 ((+48+)) (45) "Predatory birds" means wild birds that may be hunted
28 throughout the year as authorized by the commission.

29 ~~((+49+)) "Prohibited aquatic animal species" means an invasive~~
30 ~~species of the animal kingdom that has been classified as a prohibited~~
31 ~~aquatic animal species by the commission.~~

32 (+50+)) (46) "Protected wildlife" means wildlife designated by the
33 commission that shall not be hunted or fished.

34 ((+51+)) (47) "Raffle" means an activity in which tickets bearing
35 an individual number are sold for not more than twenty-five dollars
36 each and in which a permit or permits are awarded to hunt or for access
37 to hunt big game animals or wild turkeys on the basis of a drawing from
38 the tickets by the person or persons conducting the raffle.

1 ~~((52)) "Recreational and commercial watercraft" includes the boat,~~
2 ~~as well as equipment used to transport the boat, and any auxiliary~~
3 ~~equipment such as attached or detached outboard motors.~~

4 ~~(53) "Regulated aquatic animal species" means a potentially~~
5 ~~invasive species of the animal kingdom that has been classified as a~~
6 ~~regulated aquatic animal species by the commission.~~

7 ~~(54))~~ (48) "Resident" has the same meaning as defined in RCW
8 77.08.075.

9 ~~((55))~~ (49) "Retail-eligible species" means commercially
10 harvested salmon, crab, and sturgeon.

11 ~~((56))~~ (50) "Saltwater" means those marine waters seaward of
12 river mouths.

13 ~~((57))~~ (51) "Seaweed" means marine aquatic plant species that are
14 dependent upon the marine aquatic or tidal environment, and exist in
15 either an attached or free floating form, and includes but is not
16 limited to marine aquatic plants in the classes Chlorophyta,
17 Phaeophyta, and Rhodophyta.

18 ~~((58))~~ (52) "Senior" means a person seventy years old or older.

19 ~~((59))~~ (53) "Shark fin" means a raw, dried, or otherwise
20 processed detached fin or tail of a shark.

21 ~~((60))~~ (54)(a) "Shark fin derivative product" means any product
22 intended for use by humans or animals that is derived in whole or in
23 part from shark fins or shark fin cartilage.

24 (b) "Shark fin derivative product" does not include a drug approved
25 by the United States food and drug administration and available by
26 prescription only or medical device or vaccine approved by the United
27 States food and drug administration.

28 ~~((61))~~ (55) "Shellfish" means those species of marine and
29 freshwater invertebrates that have been classified and that shall not
30 be taken except as authorized by rule of the commission. The term
31 "shellfish" includes all stages of development and the bodily parts of
32 shellfish species.

33 ~~((62))~~ (56) "State waters" means all marine waters and fresh
34 waters within ordinary high water lines and within the territorial
35 boundaries of the state.

36 ~~((63))~~ (57) "Taxidermist" means a person who, for commercial
37 purposes, creates lifelike representations of fish and wildlife using
38 fish and wildlife parts and various supporting structures.

1 ~~((+64))~~ (58) "To fish," "to harvest," and "to take," and their
2 derivatives means an effort to kill, injure, harass, or catch a fish or
3 shellfish.

4 ~~((+65))~~ (59) "To hunt" and its derivatives means an effort to
5 kill, injure, capture, or harass a wild animal or wild bird.

6 ~~((+66))~~ (60) "To process" and its derivatives mean preparing or
7 preserving fish, wildlife, or shellfish.

8 ~~((+67))~~ (61) "To trap" and its derivatives means a method of
9 hunting using devices to capture wild animals or wild birds.

10 ~~((+68))~~ (62) "Trafficking" means offering, attempting to engage,
11 or engaging in sale, barter, or purchase of fish, shellfish, wildlife,
12 or deleterious exotic wildlife.

13 ~~((+69))~~ (63) "Unclaimed" means that no owner of the property has
14 been identified or has requested, in writing, the release of the
15 property to themselves nor has the owner of the property designated an
16 individual to receive the property or paid the required postage to
17 effect delivery of the property.

18 ~~((+70))~~ "~~Unlisted aquatic animal species~~" means a nonnative animal
19 species that has not been classified as a prohibited aquatic animal
20 species, a regulated aquatic animal species, or an unregulated aquatic
21 animal species by the commission.

22 ~~(+71)~~ "~~Unregulated aquatic animal species~~" means a nonnative animal
23 species that has been classified as an unregulated aquatic animal
24 species by the commission.

25 ~~(+72))~~ (64) "Wholesale fish dealer" means a person who, acting for
26 commercial purposes, takes possession or ownership of fish or shellfish
27 and sells, barter, or exchanges or attempts to sell, barter, or
28 exchange fish or shellfish that have been landed into the state of
29 Washington or entered the state of Washington in interstate or foreign
30 commerce.

31 ~~((+73))~~ (65) "Wild animals" means those species of the class
32 Mammalia whose members exist in Washington in a wild state. The term
33 "wild animal" does not include feral domestic mammals or old world rats
34 and mice of the family Muridae of the order Rodentia.

35 ~~((+74))~~ (66) "Wild birds" means those species of the class Aves
36 whose members exist in Washington in a wild state.

37 ~~((+75))~~ (67) "Wildlife" means all species of the animal kingdom
38 whose members exist in Washington in a wild state. This includes but

1 is not limited to mammals, birds, reptiles, amphibians, fish, and
2 invertebrates. The term "wildlife" does not include feral domestic
3 mammals, old world rats and mice of the family Muridae of the order
4 Rodentia, or those fish, shellfish, and marine invertebrates classified
5 as food fish or shellfish by the director. The term "wildlife"
6 includes all stages of development and the bodily parts of wildlife
7 members.

8 ~~((+76+))~~ (68) "Wildlife meat cutter" means a person who packs,
9 cuts, processes, or stores wildlife for consumption for another for
10 commercial purposes.

11 ~~((+77+))~~ (69) "Youth" means a person fifteen years old for fishing
12 and under sixteen years old for hunting.

13 **Sec. 302.** RCW 77.12.020 and 2002 c 281 s 3 are each amended to
14 read as follows:

15 (1) The director shall investigate the habits and distribution of
16 the various species of wildlife native to or adaptable to the habitats
17 of the state. The commission shall determine whether a species should
18 be managed by the department and, if so, classify it under this
19 section.

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

22 (3) The commission may classify by rule wild birds as game birds or
23 predatory birds. All wild birds not otherwise classified are protected
24 wildlife.

25 (4) In addition to those species listed in RCW 77.08.020, the
26 commission may classify by rule as game fish other species of the class
27 Osteichthyes that are commonly found in freshwater except those
28 classified as food fish by the director.

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

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

36 (7) If the director determines that a species of the animal
37 kingdom, not native to Washington, is dangerous to the environment or

1 wildlife of the state, the director may request its designation as
2 deleterious exotic wildlife. The commission may designate deleterious
3 exotic wildlife.

4 ~~(8) ((Upon recommendation by the director, the commission may~~
5 ~~classify nonnative aquatic animal species according to the following~~
6 ~~categories:~~

7 ~~(a) Prohibited aquatic animal species:—These species are~~
8 ~~considered by the commission to have a high risk of becoming an~~
9 ~~invasive species and may not be possessed, imported, purchased, sold,~~
10 ~~propagated, transported, or released into state waters except as~~
11 ~~provided in RCW 77.15.253;~~

12 ~~(b) Regulated aquatic animal species:—These species are considered~~
13 ~~by the commission to have some beneficial use along with a moderate,~~
14 ~~but manageable risk of becoming an invasive species, and may not be~~
15 ~~released into state waters, except as provided in RCW 77.15.253.—The~~
16 ~~commission shall classify the following commercial aquaculture species~~
17 ~~as regulated aquatic animal species, and allow their release into state~~
18 ~~waters pursuant to rule of the commission: Pacific oyster (*Crassostrea*~~
19 ~~*gigas*), kumamoto oyster (*Crassostrea sikamea*), European flat oyster~~
20 ~~(*Ostrea edulis*), eastern oyster (*Crassostrea virginica*), manila clam~~
21 ~~(*Tapes philippinarum*), blue mussel (*Mytilus galloprovincialis*), and~~
22 ~~suminoe oyster (*Crassostrea ariankensis*);~~

23 ~~(c) Unregulated aquatic animal species:—These species are~~
24 ~~considered by the commission as having some beneficial use along with~~
25 ~~a low risk of becoming an invasive species, and are not subject to~~
26 ~~regulation under this title;~~

27 ~~(d) Unlisted aquatic animal species:—These species are not~~
28 ~~designated as a prohibited aquatic animal species, regulated aquatic~~
29 ~~animal species, or unregulated aquatic animal species by the~~
30 ~~commission, and may not be released into state waters. Upon request,~~
31 ~~the commission may determine the appropriate category for an unlisted~~
32 ~~aquatic animal species and classify the species accordingly;~~

33 ~~(e) This subsection (8) does not apply to the transportation or~~
34 ~~release of nonnative aquatic animal species by ballast water or ballast~~
35 ~~water discharge.~~

36 ~~(9))~~ Upon recommendation by the director, the commission may
37 develop a work plan to eradicate native aquatic species that threaten

1 human health. Priority shall be given to water bodies that the
2 department of health has classified as representing a threat to human
3 health based on the presence of a native aquatic species.

4 **Sec. 303.** RCW 77.15.080 and 2012 c 176 s 9 are each amended to
5 read as follows:

6 ((+1)) Based upon articulable facts that a person is engaged in
7 fishing, harvesting, or hunting activities, fish and wildlife officers
8 and ex officio fish and wildlife officers have the authority to
9 temporarily stop the person and check for valid licenses, tags,
10 permits, stamps, or catch record cards, and to inspect all fish,
11 shellfish, seaweed, and wildlife in possession as well as the equipment
12 being used to ensure compliance with the requirements of this title.
13 Fish and wildlife officers and ex officio fish and wildlife officers
14 also may request that the person write his or her signature for
15 comparison with the signature on his or her fishing, harvesting, or
16 hunting license. Failure to comply with the request is prima facie
17 evidence that the person is not the person named on the license. Fish
18 and wildlife officers may require the person, if age sixteen or older,
19 to exhibit a driver's license or other photo identification.

20 ~~((2) Based upon articulable facts that a person is transporting a
21 prohibited aquatic animal species or any aquatic plant, fish and
22 wildlife officers and ex officio fish and wildlife officers have the
23 authority to temporarily stop the person and inspect the watercraft to
24 ensure that the watercraft and associated equipment are not
25 transporting prohibited aquatic animal species or aquatic plants.))~~

26 **Sec. 304.** RCW 77.15.290 and 2012 c 176 s 21 are each amended to
27 read as follows:

28 (1) A person is guilty of unlawful transportation of fish or
29 wildlife in the second degree if the person:

30 (a) Knowingly imports, moves within the state, or exports fish,
31 shellfish, or wildlife in violation of any department rule governing
32 the transportation or movement of fish, shellfish, or wildlife and the
33 transportation does not involve big game, endangered fish or wildlife,
34 deleterious exotic wildlife, or fish, shellfish, or wildlife having a
35 value greater than two hundred fifty dollars; or

1 (b) Possesses but fails to affix or notch a big game transport tag
2 as required by department rule.

3 (2) A person is guilty of unlawful transportation of fish or
4 wildlife in the first degree if the person:

5 (a) Knowingly imports, moves within the state, or exports fish,
6 shellfish, or wildlife in violation of any department rule governing
7 the transportation or movement of fish, shellfish, or wildlife and the
8 transportation involves big game, endangered fish or wildlife,
9 deleterious exotic wildlife, or fish, shellfish, or wildlife with a
10 value of two hundred fifty dollars or more; or

11 (b) Knowingly transports shellfish, shellstock, or equipment used
12 in commercial culturing, taking, handling, or processing shellfish
13 without a permit required by authority of this title.

14 (3)(a) Unlawful transportation of fish or wildlife in the second
15 degree is a misdemeanor.

16 (b) Unlawful transportation of fish or wildlife in the first degree
17 is a gross misdemeanor.

18 (4) This section does not apply to(~~(a) Any person stopped at an~~
19 ~~aquatic)) invasive species (~~check station who possesses a recreational~~
20 ~~or commercial watercraft that is contaminated with an aquatic invasive~~
21 ~~species if that person complies with all department directives for the~~
22 ~~proper decontamination of the watercraft and equipment; or (b) any~~
23 ~~person who has voluntarily submitted a recreational or commercial~~
24 ~~watercraft for inspection by the department or its designee and has~~
25 ~~received a receipt verifying that the watercraft has not been~~
26 ~~contaminated since its last use)).~~~~

27 **Sec. 305.** RCW 43.06.010 and 1994 c 223 s 3 are each amended to
28 read as follows:

29 In addition to those prescribed by the Constitution, the governor
30 may exercise the powers and perform the duties prescribed in this and
31 the following sections:

32 (1) The governor shall supervise the conduct of all executive and
33 ministerial offices;

34 (2) The governor shall see that all offices are filled, including
35 as provided in RCW 42.12.070, and the duties thereof performed, or in
36 default thereof, apply such remedy as the law allows; and if the remedy
37 is imperfect, acquaint the legislature therewith at its next session;

1 (3) The governor shall make the appointments and supply the
2 vacancies mentioned in this title;

3 (4) The governor is the sole official organ of communication
4 between the government of this state and the government of any other
5 state or territory, or of the United States;

6 (5) Whenever any suit or legal proceeding is pending against this
7 state, or which may affect the title of this state to any property, or
8 which may result in any claim against the state, the governor may
9 direct the attorney general to appear on behalf of the state, and
10 report the same to the governor, or to any grand jury designated by the
11 governor, or to the legislature when next in session;

12 (6) The governor may require the attorney general or any
13 prosecuting attorney to inquire into the affairs or management of any
14 corporation existing under the laws of this state, or doing business in
15 this state, and report the same to the governor, or to any grand jury
16 designated by the governor, or to the legislature when next in session;

17 (7) The governor may require the attorney general to aid any
18 prosecuting attorney in the discharge of the prosecutor's duties;

19 (8) The governor may offer rewards, not exceeding one thousand
20 dollars in each case, payable out of the state treasury, for
21 information leading to the apprehension of any person convicted of a
22 felony who has escaped from a state correctional institution or for
23 information leading to the arrest of any person who has committed or is
24 charged with the commission of a felony;

25 (9) The governor shall perform such duties respecting fugitives
26 from justice as are prescribed by law;

27 (10) The governor shall issue and transmit election proclamations
28 as prescribed by law;

29 (11) The governor may require any officer or board to make, upon
30 demand, special reports to the governor, in writing;

31 (12) The governor may, after finding that a public disorder,
32 disaster, energy emergency, or riot exists within this state or any
33 part thereof which affects life, health, property, or the public peace,
34 proclaim a state of emergency in the area affected, and the powers
35 granted the governor during a state of emergency shall be effective
36 only within the area described in the proclamation;

37 (13) The governor may, after finding that there exists within this
38 state an imminent danger of infestation of plant pests as defined in

1 RCW 17.24.007 or plant diseases which seriously endangers the
2 agricultural or horticultural industries of the state of Washington, or
3 which seriously threatens life, health, or economic well-being, order
4 emergency measures to prevent or abate the infestation or disease
5 situation, which measures, after thorough evaluation of all other
6 alternatives, may include the aerial application of pesticides;

7 (14) The governor, after finding that a prohibited level 1 or level
8 2 species as defined in chapter 77.-- RCW (the new chapter created in
9 section 122 of this act) has been detected and after finding that the
10 detected species seriously endangers or threatens the environment,
11 economy, human health, or well-being of the state of Washington, may
12 order emergency measures to prevent or abate the prohibited species,
13 which measures, after thorough evaluation of all other alternatives,
14 may include the surface or aerial application of pesticides;

15 (15) On all compacts forwarded to the governor pursuant to RCW
16 9.46.360(6), the governor is authorized and empowered to execute on
17 behalf of the state compacts with federally recognized Indian tribes in
18 the state of Washington pursuant to the federal Indian Gaming
19 Regulatory Act, 25 U.S.C. Sec. 2701 et seq., for conducting class III
20 gaming, as defined in the Act, on Indian lands.

21 **Sec. 306.** RCW 43.43.400 and 2011 c 171 s 8 are each amended to
22 read as follows:

23 ~~(1) ((The definitions in this subsection apply throughout this~~
24 ~~section unless the context clearly requires otherwise:~~

25 ~~(a) "Aquatic invasive species" means any invasive, prohibited,~~
26 ~~regulated, unregulated, or unlisted aquatic animal or plant species as~~
27 ~~defined under RCW 77.08.010 [(3),] (28), (40), (44), (58), and (59),~~
28 ~~aquatic noxious weeds as defined under RCW 17.26.020(5)(c), and aquatic~~
29 ~~nuisance species as defined under RCW 77.60.130(1).~~

30 ~~(b) "Recreational and commercial watercraft" includes the boat, as~~
31 ~~well as equipment used to transport the boat, and any auxiliary~~
32 ~~equipment such as attached or detached outboard motors.~~

33 ~~(2))~~ The aquatic invasive species enforcement account is created
34 in the state treasury. Moneys directed to the account from RCW
35 88.02.640 must be deposited in the account. Expenditures from the
36 account may only be used as provided in this section. Moneys in the
37 account may be spent only after appropriation.

1 ~~((3) Funds in the aquatic invasive species enforcement account may~~
2 ~~be appropriated to the Washington state patrol and the department of~~
3 ~~fish and wildlife to develop an aquatic invasive species enforcement~~
4 ~~program for recreational and commercial watercraft, which includes~~
5 ~~equipment used to transport the watercraft and auxiliary equipment such~~
6 ~~as attached or detached outboard motors. Funds must be expended as~~
7 ~~follows:~~

8 ~~(a) By the Washington state patrol, to inspect recreational and~~
9 ~~commercial watercraft that are required to stop at port of entry weigh~~
10 ~~stations managed by the Washington state patrol. The watercraft must~~
11 ~~be inspected for the presence of aquatic invasive species; and~~

12 ~~(b) By the department of fish and wildlife to:~~

13 ~~(i) Establish random check stations, to inspect recreational and~~
14 ~~commercial watercraft as provided for in RCW 77.12.879(3);~~

15 ~~(ii) Inspect or delegate inspection of recreational and commercial~~
16 ~~watercraft. If the department conducts the inspection, there will be~~
17 ~~no cost to the person requesting the inspection;~~

18 ~~(iii) Provide training to all department employees that are~~
19 ~~deployed in the field to inspect recreational and commercial~~
20 ~~watercraft; and~~

21 ~~(iv) Provide an inspection receipt verifying that the watercraft is~~
22 ~~not contaminated after the watercraft has been inspected at a check~~
23 ~~station or has been inspected at the request of the owner of the~~
24 ~~recreational or commercial watercraft. The inspection receipt is valid~~
25 ~~until the watercraft is used again.~~

26 ~~(4) The Washington state patrol and the department of fish and~~
27 ~~wildlife shall submit a biennial report to the appropriate legislative~~
28 ~~committees describing the actions taken to implement this section along~~
29 ~~with suggestions on how to better fulfill the intent of chapter 464,~~
30 ~~Laws of 2005. The first report is due December 1, 2007.))~~

31 (2) Funds in the aquatic invasive species enforcement account must
32 be appropriated to the Washington state patrol to inspect for the
33 presence of aquatic invasive species on aquatic conveyances that are
34 required to stop at a Washington state patrol port of entry weigh
35 station.

36 (3) Funds in the aquatic invasive species enforcement account must
37 be appropriated to the department of fish and wildlife to implement the

1 aquatic invasive species enforcement program provisions under section
2 120 of this act.

3 (4) Unless the context clearly requires otherwise, the definitions
4 in both RCW 77.08.010 and section 102 of this act apply throughout this
5 section.

6 **Sec. 307.** RCW 10.31.100 and 2013 2nd sp.s. c 35 s 22 are each
7 amended to read as follows:

8 A police officer having probable cause to believe that a person has
9 committed or is committing a felony shall have the authority to arrest
10 the person without a warrant. A police officer may arrest a person
11 without a warrant for committing a misdemeanor or gross misdemeanor
12 only when the offense is committed in the presence of the officer,
13 except as provided in subsections (1) through (11) of this section.

14 (1) Any police officer having probable cause to believe that a
15 person has committed or is committing a misdemeanor or gross
16 misdemeanor, involving physical harm or threats of harm to any person
17 or property or the unlawful taking of property or involving the use or
18 possession of cannabis, or involving the acquisition, possession, or
19 consumption of alcohol by a person under the age of twenty-one years
20 under RCW 66.44.270, or involving criminal trespass under RCW 9A.52.070
21 or 9A.52.080, shall have the authority to arrest the person.

22 (2) A police officer shall arrest and take into custody, pending
23 release on bail, personal recognizance, or court order, a person
24 without a warrant when the officer has probable cause to believe that:

25 (a) An order has been issued of which the person has knowledge
26 under RCW 26.44.063, or chapter 7.92, 7.90, 9A.46, 10.99, 26.09, 26.10,
27 26.26, 26.50, or 74.34 RCW restraining the person and the person has
28 violated the terms of the order restraining the person from acts or
29 threats of violence, or restraining the person from going onto the
30 grounds of or entering a residence, workplace, school, or day care, or
31 prohibiting the person from knowingly coming within, or knowingly
32 remaining within, a specified distance of a location or, in the case of
33 an order issued under RCW 26.44.063, imposing any other restrictions or
34 conditions upon the person; or

35 (b) A foreign protection order, as defined in RCW 26.52.010, has
36 been issued of which the person under restraint has knowledge and the
37 person under restraint has violated a provision of the foreign

1 protection order prohibiting the person under restraint from contacting
2 or communicating with another person, or excluding the person under
3 restraint from a residence, workplace, school, or day care, or
4 prohibiting the person from knowingly coming within, or knowingly
5 remaining within, a specified distance of a location, or a violation of
6 any provision for which the foreign protection order specifically
7 indicates that a violation will be a crime; or

8 (c) The person is sixteen years or older and within the preceding
9 four hours has assaulted a family or household member as defined in RCW
10 10.99.020 and the officer believes: (i) A felonious assault has
11 occurred; (ii) an assault has occurred which has resulted in bodily
12 injury to the victim, whether the injury is observable by the
13 responding officer or not; or (iii) that any physical action has
14 occurred which was intended to cause another person reasonably to fear
15 imminent serious bodily injury or death. Bodily injury means physical
16 pain, illness, or an impairment of physical condition. When the
17 officer has probable cause to believe that family or household members
18 have assaulted each other, the officer is not required to arrest both
19 persons. The officer shall arrest the person whom the officer believes
20 to be the primary physical aggressor. In making this determination,
21 the officer shall make every reasonable effort to consider: (i) The
22 intent to protect victims of domestic violence under RCW 10.99.010;
23 (ii) the comparative extent of injuries inflicted or serious threats
24 creating fear of physical injury; and (iii) the history of domestic
25 violence of each person involved, including whether the conduct was
26 part of an ongoing pattern of abuse; or

27 (d) The person has violated RCW 46.61.502 or 46.61.504 or an
28 equivalent local ordinance and the police officer has knowledge that
29 the person has a prior offense as defined in RCW 46.61.5055 within ten
30 years.

31 (3) Any police officer having probable cause to believe that a
32 person has committed or is committing a violation of any of the
33 following traffic laws shall have the authority to arrest the person:

34 (a) RCW 46.52.010, relating to duty on striking an unattended car
35 or other property;

36 (b) RCW 46.52.020, relating to duty in case of injury to or death
37 of a person or damage to an attended vehicle;

1 (c) RCW 46.61.500 or 46.61.530, relating to reckless driving or
2 racing of vehicles;

3 (d) RCW 46.61.502 or 46.61.504, relating to persons under the
4 influence of intoxicating liquor or drugs;

5 (e) RCW 46.61.503 or 46.25.110, relating to persons having alcohol
6 or THC in their system;

7 (f) RCW 46.20.342, relating to driving a motor vehicle while
8 operator's license is suspended or revoked;

9 (g) RCW 46.61.5249, relating to operating a motor vehicle in a
10 negligent manner.

11 (4) A law enforcement officer investigating at the scene of a motor
12 vehicle accident may arrest the driver of a motor vehicle involved in
13 the accident if the officer has probable cause to believe that the
14 driver has committed in connection with the accident a violation of any
15 traffic law or regulation.

16 (5)(a) A law enforcement officer investigating at the scene of a
17 motor vessel accident may arrest the operator of a motor vessel
18 involved in the accident if the officer has probable cause to believe
19 that the operator has committed, in connection with the accident, a
20 criminal violation of chapter 79A.60 RCW.

21 (b) A law enforcement officer investigating at the scene of a motor
22 vessel accident may issue a citation for an infraction to the operator
23 of a motor vessel involved in the accident if the officer has probable
24 cause to believe that the operator has committed, in connection with
25 the accident, a violation of any boating safety law of chapter 79A.60
26 RCW.

27 (6) Any police officer having probable cause to believe that a
28 person has committed or is committing a violation of RCW 79A.60.040
29 shall have the authority to arrest the person.

30 (7) An officer may act upon the request of a law enforcement
31 officer in whose presence a traffic infraction was committed, to stop,
32 detain, arrest, or issue a notice of traffic infraction to the driver
33 who is believed to have committed the infraction. The request by the
34 witnessing officer shall give an officer the authority to take
35 appropriate action under the laws of the state of Washington.

36 (8) Any police officer having probable cause to believe that a
37 person has committed or is committing any act of indecent exposure, as
38 defined in RCW 9A.88.010, may arrest the person.

1 (9) A police officer may arrest and take into custody, pending
2 release on bail, personal recognizance, or court order, a person
3 without a warrant when the officer has probable cause to believe that
4 an order has been issued of which the person has knowledge under
5 chapter 10.14 RCW and the person has violated the terms of that order.

6 (10) Any police officer having probable cause to believe that a
7 person has, within twenty-four hours of the alleged violation,
8 committed a violation of RCW 9A.50.020 may arrest such person.

9 (11) A police officer having probable cause to believe that a
10 person illegally possesses or illegally has possessed a firearm or
11 other dangerous weapon on private or public elementary or secondary
12 school premises shall have the authority to arrest the person.

13 For purposes of this subsection, the term "firearm" has the meaning
14 defined in RCW 9.41.010 and the term "dangerous weapon" has the meaning
15 defined in RCW 9.41.250 and 9.41.280(1) (c) through (e).

16 (12) A law enforcement officer having probable cause to believe
17 that a person has committed a violation under RCW 77.15.160(4) may
18 issue a citation for an infraction to the person in connection with the
19 violation.

20 (13) A law enforcement officer having probable cause to believe
21 that a person has committed a criminal violation under section 205 or
22 206 of this act may arrest the person in connection with the violation.

23 (14) Except as specifically provided in subsections (2), (3), (4),
24 and (7) of this section, nothing in this section extends or otherwise
25 affects the powers of arrest prescribed in Title 46 RCW.

26 ~~((+13))~~ (15) No police officer may be held criminally or civilly
27 liable for making an arrest pursuant to subsection (2) or (9) of this
28 section if the police officer acts in good faith and without malice.

29 NEW SECTION. Sec. 308. The following acts or parts of acts are
30 each repealed:

31 (1) RCW 77.12.875 (Prohibited aquatic animal species--Infested
32 state waters) and 2002 c 281 s 5;

33 (2) RCW 77.12.878 (Infested waters--Rapid response plan) and 2002
34 c 281 s 6;

35 (3) RCW 77.12.879 (Aquatic invasive species prevention account--
36 Aquatic invasive species prevention program for recreational and

1 commercial watercraft--Enforcement program--Check stations--Training--
2 Report to the legislature) and 2013 c 307 s 1, 2011 c 171 s 113, 2011
3 c 169 s 4, 2009 c 333 s 22, 2007 c 350 s 3, & 2005 c 464 s 3;
4 (4) RCW 77.12.882 (Aquatic invasive species--Inspection of
5 recreational and commercial watercraft--Rules--Signage) and 2007 c 350
6 s 4;
7 (5) RCW 77.15.253 (Unlawful use of prohibited aquatic animal
8 species--Penalty) and 2007 c 350 s 5 & 2002 c 281 s 4;
9 (6) RCW 77.15.293 (Unlawfully avoiding aquatic invasive species
10 check stations--Penalty) and 2007 c 350 s 7;
11 (7) RCW 77.60.110 (Zebra mussels and European green crabs--Draft
12 rules--Prevention of introduction and dispersal) and 1998 c 153 s 2;
13 and
14 (8) RCW 77.60.120 (Infested waters--List published) and 1998 c 153
15 s 3.

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