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**SENATE BILL 5303**

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**State of Washington 65th Legislature 2017 Regular Session**

**By** Senators Honeyford, Rolfes, Chase, Hawkins, Warnick, Bailey, and Ranker; by request of Department of Fish and Wildlife

AN ACT Relating to aquatic invasive species management; amending RCW 43.43.400, 77.120.110, 82.16.020, 77.120.070, 77.135.160, 77.120.010, 77.135.110, and 77.135.120; reenacting and amending RCW 88.02.640, 88.02.640, 77.15.160, and 77.135.010; adding new sections to chapter 77.135 RCW; adding new sections to chapter 77.120 RCW; creating a new section; repealing RCW 77.12.879; prescribing penalties; providing an effective date; and providing an expiration date.

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

**PART ONE**

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

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

The aquatic invasive species management account is created in the state treasury. All receipts directed to the account from RCW 88.02.640, 82.16.020, and section 204 of this act, as well as legislative appropriations, gifts, donations, fees, and penalties received by the department for aquatic invasive species management, must be deposited into the account. Moneys in the account may be used only after appropriation. Expenditures from the account may only be used to implement aquatic invasive species-related provisions under this title.

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

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

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

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

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

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

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

|  |  |  |  |
| --- | --- | --- | --- |
| FEE | AMOUNT | AUTHORITY | DISTRIBUTION |
| (a) Dealer temporary permit | $5.00 | RCW 88.02.800(2) | General fund |
| (b) Derelict vessel and invasive species removal | Subsection (3) of this section | Subsection (3) of this section | Subsection (3) of this section |
| (c) Derelict vessel removal surcharge | $1.00 | Subsection (4) of this section | Subsection (4) of this section |
| (d) Duplicate certificate of title | $1.25 | RCW 88.02.530(1)(c) | General fund |
| (e) Duplicate registration | $1.25 | RCW 88.02.590(1)(c) | General fund |
| (f) Filing | RCW 46.17.005 | RCW 88.02.560(2) | RCW 46.68.400 |
| (g) License plate technology | RCW 46.17.015 | RCW 88.02.560(2) | RCW 46.68.370 |
| (h) License service | RCW 46.17.025 | RCW 88.02.560(2) | RCW 46.68.220 |
| (i) Nonresident vessel permit | Subsection (5) of this section | RCW 88.02.620(4) | Subsection (5) of this section |
| (j) Quick title service | $50.00 | RCW 88.02.540(3) | Subsection (7) of this section |
| (k) Registration | $10.50 | RCW 88.02.560(2) | RCW 88.02.650 |
| (l) Replacement decal | $1.25 | RCW 88.02.595(1)(c) | General fund |
| (m) Service fee | RCW 46.17.040 | RCW 88.02.515 and 88.02.560(2) | RCW 46.17.040 |
| (n) Title application | $5.00 | RCW 88.02.515 | General fund |
| (o) Transfer | $1.00 | RCW 88.02.560(7) | General fund |
| (p) Vessel visitor permit | $30.00 | RCW 88.02.610(3) | Subsection (6) of this section |

(2) The five dollar dealer temporary permit fee required in subsection (1) of this section must be credited to the payment of registration fees at the time application for registration is made.

(3) The derelict vessel and invasive species removal fee required in subsection (1) of this section is five dollars and must be distributed as follows:

(a) ((~~One dollar and fifty cents~~)) Two dollars must be deposited in the aquatic invasive species ((~~prevention~~)) management account created in ((~~RCW 77.12.879~~)) section 101 of this act;

(b) One dollar must be deposited into the aquatic algae control account created in RCW 43.21A.667; and

(c) ((~~Fifty cents must be deposited into the aquatic invasive species enforcement account created in RCW 43.43.400; and~~

~~(d)~~)) Two dollars must be deposited in the derelict vessel removal account created in RCW 79.100.100.

(4) In addition to other fees required in this section, an annual derelict vessel removal surcharge of one dollar must be charged with each vessel registration. The surcharge is to address the significant backlog of derelict vessels accumulated in Washington waters that pose a threat to the health and safety of the people and to the environment and must be deposited into the derelict vessel removal account created in RCW 79.100.100.

(5)(a) The amount of the nonresident vessel permit fee is:

(i) For a vessel owned by a nonresident natural person, twenty-five dollars; and

(ii) For a nonresident vessel owner that is not a natural person, the fee is equal to:

(A) Twenty-five dollars per foot for vessels between thirty and ninety-nine feet in length;

(B) Thirty dollars per foot for vessels between one hundred and one hundred twenty feet in length; and

(C) Thirty-seven dollars and fifty cents per foot for vessels between one hundred twenty-one and one hundred sixty-four feet in length. The fee must be multiplied by the extreme length of the vessel in feet, rounded up to the nearest whole foot.

(b) The fee must be paid by the vessel owner to the department. Any moneys remaining from the fee after the payment of costs to administer the permit must be allocated to counties by the state treasurer for approved boating safety programs under RCW 88.02.650.

(c) A nonresident vessel owner that is not a natural person may not obtain more than two nonresident vessel permits under RCW 88.02.620 within any thirty-six month period.

(6) The thirty dollar vessel visitor permit fee must be distributed as follows:

(a) Five dollars must be deposited in the derelict vessel removal account created in RCW 79.100.100;

(b) The department may keep an amount to cover costs for providing the vessel visitor permit;

(c) Any moneys remaining must be allocated to counties by the state treasurer for approved boating safety programs under RCW 88.02.650; and

(d) Any fees required for licensing agents under RCW 46.17.005 are in addition to any other fee or tax due for the titling and registration of vessels.

(7)(a) The fifty dollar quick title service fee must be distributed as follows:

(i) If the fee is paid to the director, the fee must be deposited to the general fund.

(ii) If the fee is paid to the participating county auditor or other agent appointed by the director, twenty-five dollars must be deposited to the general fund. The remainder must be retained by the county treasurer in the same manner as other fees collected by the county auditor.

(iii) If the fee is paid to a subagent appointed by the director, twenty-five dollars must be deposited to the general fund. The remaining twenty-five dollars must be distributed as follows: Twelve dollars and fifty cents must be retained by the county treasurer in the same manner as other fees collected by the county auditor and twelve dollars and fifty cents must be retained by the subagent.

(b) For the purposes of this subsection, "quick title" has the same meaning as in RCW 88.02.540.

(8) The department, county auditor or other agent, or subagent appointed by the director shall charge the service fee under subsection (1)(m) of this section beginning January 1, 2016.

**Sec.**  RCW 88.02.640 and 2015 3rd sp.s. c 44 s 216 and 2015 2nd sp.s. c 1 s 2 are each reenacted and amended to read as follows:

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

|  |  |  |  |
| --- | --- | --- | --- |
| FEE | AMOUNT | AUTHORITY | DISTRIBUTION |
| (a) Dealer temporary permit | $5.00 | RCW 88.02.800(2) | General fund |
| (b) Derelict vessel and invasive species removal | Subsection (3) of this section | Subsection (3) of this section | Subsection (3) of this section |
| (c) Derelict vessel removal surcharge | $1.00 | Subsection (4) of this section | Subsection (4) of this section |
| (d) Duplicate certificate of title | $1.25 | RCW 88.02.530(1)(c) | General fund |
| (e) Duplicate registration | $1.25 | RCW 88.02.590(1)(c) | General fund |
| (f) Filing | RCW 46.17.005 | RCW 88.02.560(2) | RCW 46.68.400 |
| (g) License plate technology | RCW 46.17.015 | RCW 88.02.560(2) | RCW 46.68.370 |
| (h) License service | RCW 46.17.025 | RCW 88.02.560(2) | RCW 46.68.220 |
| (i) Nonresident vessel permit | $25.00 | RCW 88.02.620(3) | Subsection (5) of this section |
| (j) Quick title service | $50.00 | RCW 88.02.540(3) | Subsection (7) of this section |
| (k) Registration | $10.50 | RCW 88.02.560(2) | RCW 88.02.650 |
| (l) Replacement decal | $1.25 | RCW 88.02.595(1)(c) | General fund |
| (m) Service fee | RCW 46.17.040 | RCW 88.02.515 and 88.02.560(2) | RCW 46.17.040 |
| (n) Title application | $5.00 | RCW 88.02.515 | General fund |
| (o) Transfer | $1.00 | RCW 88.02.560(7) | General fund |
| (p) Vessel visitor permit | $30.00 | RCW 88.02.610(3) | Subsection (6) of this section |

(2) The five dollar dealer temporary permit fee required in subsection (1) of this section must be credited to the payment of registration fees at the time application for registration is made.

(3) The derelict vessel and invasive species removal fee required in subsection (1) of this section is five dollars and must be distributed as follows:

(a) ((~~One dollar and fifty cents~~)) Two dollars must be deposited in the aquatic invasive species ((~~prevention~~)) management account created in ((~~RCW 77.12.879~~)) section 101 of this act;

(b) One dollar must be deposited into the aquatic algae control account created in RCW 43.21A.667; and

(c) ((~~Fifty cents must be deposited into the aquatic invasive species enforcement account created in RCW 43.43.400; and~~

~~(d)~~)) Two dollars must be deposited in the derelict vessel removal account created in RCW 79.100.100.

(4) In addition to other fees required in this section, an annual derelict vessel removal surcharge of one dollar must be charged with each vessel registration. The surcharge is to address the significant backlog of derelict vessels accumulated in Washington waters that pose a threat to the health and safety of the people and to the environment and must be deposited into the derelict vessel removal account created in RCW 79.100.100.

(5) The twenty-five dollar nonresident vessel permit fee must be paid by the vessel owner to the department for the cost of providing the identification document by the department. Any moneys remaining from the fee after the payment of costs must be allocated to counties by the state treasurer for approved boating safety programs under RCW 88.02.650.

(6) The thirty dollar vessel visitor permit fee must be distributed as follows:

(a) Five dollars must be deposited in the derelict vessel removal account created in RCW 79.100.100;

(b) The department may keep an amount to cover costs for providing the vessel visitor permit;

(c) Any moneys remaining must be allocated to counties by the state treasurer for approved boating safety programs under RCW 88.02.650; and

(d) Any fees required for licensing agents under RCW 46.17.005 are in addition to any other fee or tax due for the titling and registration of vessels.

(7)(a) The fifty dollar quick title service fee must be distributed as follows:

(i) If the fee is paid to the director, the fee must be deposited to the general fund.

(ii) If the fee is paid to the participating county auditor or other agent appointed by the director, twenty-five dollars must be deposited to the general fund. The remainder must be retained by the county treasurer in the same manner as other fees collected by the county auditor.

(iii) If the fee is paid to a subagent appointed by the director, twenty-five dollars must be deposited to the general fund. The remaining twenty-five dollars must be distributed as follows: Twelve dollars and fifty cents must be retained by the county treasurer in the same manner as other fees collected by the county auditor and twelve dollars and fifty cents must be retained by the subagent.

(b) For the purposes of this subsection, "quick title" has the same meaning as in RCW 88.02.540.

(8) The department, county auditor or other agent, or subagent appointed by the director shall charge the service fee under subsection (1)(m) of this section beginning January 1, 2016.

NEW SECTION. **Sec.**  The state treasurer shall transfer all moneys in the aquatic invasive species enforcement account created in RCW 43.43.400 and the aquatic invasive species prevention account created in RCW 77.12.879 to the aquatic invasive species management account created in section 101 of this act.

**Sec.**  RCW 77.120.110 and 2009 c 333 s 27 are each amended to read as follows:

(1) The ballast water and biofouling management account is created in the state treasury. All receipts from legislative appropriations, gifts, grants, donations, penalties, and fees received under this chapter must be deposited into the account.

(2) Expenditures from the account may be used only to carry out the purposes of this chapter. However, penalties may not be used for the salaries of permanent department employees.

(3) Moneys in the account may be spent only after appropriation. ((~~Expenditures from the account may be used only to carry out the purposes of this chapter or support the goals of this chapter through research and monitoring except:~~

~~(a) Expenditures may not be used for the salaries of permanent department employees; and~~

~~(b) Penalties deposited into the account may be used only to support basic and applied research and carry out education and outreach related to the state's ballast water management.~~))

NEW SECTION. **Sec.**  RCW 77.12.879 (Aquatic invasive species prevention account) and 2014 c 202 s 309 & 2013 c 307 s 1 are each repealed.

**PART TWO**

**AQUATIC INVASIVE SPECIES MANAGEMENT—AQUATIC INVASIVE SPECIES, BALLAST WATER, AND BIOFOULING PROGRAM FUNDING**

**Sec.**  RCW 82.16.020 and 2015 3rd sp.s. c 6 s 703 are each amended to read as follows:

(1) There is levied and collected from every person a tax for the act or privilege of engaging within this state in any one or more of the businesses herein mentioned. The tax is equal to the gross income of the business, multiplied by the rate set out after the business, as follows:

(a) Express, sewerage collection, and telegraph businesses: Three and six-tenths percent;

(b) Light and power business: Three and sixty-two one-hundredths percent;

(c) Gas distribution business: Three and six-tenths percent;

(d) Urban transportation business: Six-tenths of one percent;

(e) Vessels under sixty-five feet in length, except tugboats, operating upon the waters within the state: Six-tenths of one percent;

(f) Motor transportation, railroad, railroad car, and tugboat businesses, and all public service businesses other than ones mentioned above: One and eight-tenths of one percent;

(g) Water distribution business: Four and seven-tenths percent;

(h) Log transportation business: One and twenty-eight one- hundredths percent. The reduced rate established in this subsection (1)(h) is not subject to the ten-year expiration provision in RCW 82.32.805(1)(a).

(2) An additional tax is imposed equal to the rate specified in RCW 82.02.030 multiplied by the tax payable under subsection (1) of this section.

(3) Twenty percent of the moneys collected under subsection (1) of this section on water distribution businesses and sixty percent of the moneys collected under subsection (1) of this section on sewerage collection businesses must be deposited in the education legacy trust account created in RCW 83.100.230 from July 1, 2013, through June 30, 2019, and thereafter in the public works assistance account created in RCW 43.155.050.

(4) A portion of the moneys collected under subsection (1) of this section on light and power businesses must be deposited into the aquatic invasive species management account created in section 101 of this act, as follows:

(a) During the 2017-2019 fiscal biennium, one hundred seventy-six thousandths of one percent;

(b) During the 2019-2021 fiscal biennium, four hundred forty-five thousandths of one percent; and

(c) Beginning with the 2021-2023 fiscal biennium and every fiscal biennium thereafter, six hundred seventy-three thousandths of one percent.

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

(1) The department may issue aquatic invasive species prevention permits to operators of vessels and aquatic conveyances.

(2) A person must obtain a Washington state aquatic invasive species prevention permit for each seaplane, commercial vessel, or vessel registered in another state, before placing or operating such a vessel or seaplane on any water body in the state.

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

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

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

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

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

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

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

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

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

(1) Washington state aquatic invasive species prevention permits are valid for one year beginning from the date that the permit is marked for activation unless otherwise directed by the department. The permits must be made available for purchase throughout the year through the department's automated licensing system consistent with RCW 77.32.050.

(2) The aquatic invasive species prevention permit fee for a nonresident registered vessel, seaplane, or commercial vessel as required under section 202 of this act is twenty dollars.

(3) The aquatic invasive species prevention permit fee for a person commercially transporting a small vessel, registered vessel, seaplane, or commercial vessel as required under section 203 of this act is twenty dollars.

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

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

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

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

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

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

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

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

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

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

(1) The department or its designee shall collect a vessel fee of one hundred twenty-five dollars from the owner or operator of each vessel covered by this chapter that arrives at a Washington port from a port outside of Washington. The fee may not be assessed on any vessel arriving at a Washington port if that vessel comes directly from another Washington port and during that transit has not first arrived at a port outside Washington or moved outside the United States' exclusive economic zone prior to arrival at the subsequent Washington port.

(2) The owner or operator of a vessel subject to a vessel fee under this section must pay the fee within thirty days of receipt of invoice. Failure to pay the vessel fee within the thirty-day period is subject to civil penalties as provided under RCW 77.120.070.

(3) The fee and any penalties collected under this section must be deposited into the ballast water and biofouling management account created in RCW 77.120.110.

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

The department may enter into partnerships, contracts, or any other form of agreements with other entities to carry out the intent of this chapter. The department shall ensure that any such entity is registered and licensed to do business in Washington. All agreements must be consistent with existing state laws, agency rules, state water quality standards, and collective bargaining agreements.

**PART THREE**

**AQUATIC INVASIVE SPECIES MANAGEMENT—OTHER PROVISIONS**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Fishing and shellfishing infractions:

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

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

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

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

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

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

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

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

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

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

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

(2) Hunting infractions:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4)(a) Invasive species management infractions:

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

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

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

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

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

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

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

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

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

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

(5) Other infractions:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Raw water.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) Seaplanes.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Stop at the mandatory check station;

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

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

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

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

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

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

**--- END ---**