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SECOND SUBSTITUTE SENATE BILL 5923

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State of Washington

60th Legislature

2007 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Swecker, Jacobsen and Sheldon)

READ FIRST TIME 03/05/07.

1 AN ACT Relating to aquatic invasive species enforcement and  
2 control; amending RCW 43.43.400, 77.12.879, 77.15.253, and 77.15.290;  
3 adding new sections to chapter 77.15 RCW; adding new sections to  
4 chapter 77.12 RCW; and prescribing penalties.

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

6 **Sec. 1.** RCW 43.43.400 and 2005 c 464 s 5 are each amended to read  
7 as follows:

8 (1) The aquatic invasive species enforcement account is created in  
9 the state treasury. Moneys directed to the account from RCW 88.02.050  
10 must be deposited in the account. Expenditures from the account may  
11 only be used as provided in this section. Moneys in the account may be  
12 spent only after appropriation.

13 (2) Funds in the aquatic invasive species enforcement account may  
14 be appropriated to the Washington state patrol and the department of  
15 fish and wildlife to develop an aquatic invasive species enforcement  
16 program for recreational and commercial watercraft, which includes  
17 equipment used to transport the watercraft and auxiliary equipment such  
18 as attached or detached outboard motors. Funds must be expended as  
19 follows:

1 (a) By the Washington state patrol, to inspect recreational and  
2 commercial watercraft that are required to stop at port of entry weigh  
3 stations managed by the Washington state patrol. The watercraft must  
4 be inspected for the presence of zebra mussels and other aquatic  
5 invasive species; and

6 (b) By the department of fish and wildlife, to establish random  
7 check stations, (~~in conjunction with the department of fish and~~  
8 ~~wildlife,~~) to inspect recreational and commercial watercraft (~~in~~  
9 ~~areas of high boating activity~~) as provided for in RCW 77.12.879(3).

10 (3) The Washington state patrol and the department of fish and  
11 wildlife shall submit a biennial report to the appropriate legislative  
12 committees describing the actions taken to implement this section along  
13 with suggestions on how to better fulfill the intent of chapter 464,  
14 Laws of 2005. The first report is due December 1, 2007.

15 **Sec. 2.** RCW 77.12.879 and 2005 c 464 s 3 are each amended to read  
16 as follows:

17 (1) The aquatic invasive species prevention account is created in  
18 the state treasury. Moneys directed to the account from RCW 88.02.050  
19 must be deposited in the account. Expenditures from the account may  
20 only be used as provided in this section. Moneys in the account may be  
21 spent only after appropriation.

22 (2) Funds in the aquatic invasive species prevention account may be  
23 appropriated to the department to develop an aquatic invasive species  
24 prevention program for recreational and commercial watercraft. Funds  
25 must be expended as follows:

26 (a) To inspect recreational and commercial watercraft, watercraft  
27 (~~trailers~~) transportation equipment, and outboard motors (~~at~~  
28 ~~selected boat launching sites~~);

29 (b) To educate general law enforcement officers on how to enforce  
30 state laws relating to preventing the spread of aquatic invasive  
31 species;

32 (c) To evaluate and survey the risk posed by marine recreational  
33 and commercial watercraft in spreading aquatic invasive species into  
34 Washington state waters;

35 (d) To evaluate the risk posed by float planes in spreading aquatic  
36 invasive species into Washington state waters; and

1 (e) To implement an aquatic invasive species early detection and  
2 rapid response plan.

3 (3) Funds in the aquatic invasive species enforcement account  
4 created in RCW 43.43.400 may be appropriated to the department and  
5 Washington state patrol to develop an aquatic invasive species  
6 enforcement program for recreational and commercial watercraft. The  
7 department shall provide training to Washington state patrol employees  
8 working at port of entry weigh stations on how to inspect recreational  
9 and commercial watercraft for the presence of zebra mussels and other  
10 aquatic invasive species. The department (~~shall also cooperatively~~  
11 ~~work with the Washington state patrol to set up random check stations~~  
12 ~~to inspect watercraft at areas of high boating activity~~) is authorized  
13 to require persons transporting recreational and commercial watercraft  
14 to stop at check stations. Check stations must be plainly marked by  
15 signs, operated by at least one uniformed fish and wildlife officer,  
16 and operated in a safe manner. Any person stopped at a check station  
17 who possesses watercraft or equipment that is contaminated with  
18 prohibited aquatic animal or plant species is exempt from the criminal  
19 penalties found in RCW 77.15.253 and 77.15.290, and watercraft  
20 forfeiture provided for under section 7 of this act, if that person  
21 complies with all department directives for the proper decontamination  
22 of the watercraft and equipment.

23 (4) The department shall submit a biennial report to the  
24 appropriate legislative committees describing the actions taken to  
25 implement this section along with suggestions on how to better fulfill  
26 the intent of chapter 464, Laws of 2005. The first report is due  
27 December 1, 2007.

28 NEW SECTION. Sec. 3. A new section is added to chapter 77.12 RCW  
29 to read as follows:

30 (1) The department shall post signs warning vessel owners of the  
31 threat of aquatic invasive species, the penalties associated with  
32 introduction of a prohibited aquatic animal or plant species, and the  
33 proper contact information for obtaining a free inspection. The signs  
34 must be posted at all ports of entry to the state and at all boat  
35 launches owned or leased by the department. The signs should provide  
36 enough information for the public to discern whether the vessel has  
37 been operated in an area that would warrant the need for an inspection.

1 The department shall include the same information on the department's  
2 internet site. In order to reduce the need for unnecessary  
3 inspections, the department may develop a process to assist the public  
4 in determining whether a vessel inspection is warranted via telephonic  
5 audio menu. The department shall consult with the state patrol and the  
6 department of transportation regarding proper placement and  
7 authorization for sign posting. The department must coordinate with  
8 the department of parks and recreation to include such information in  
9 all boating-related materials provided to the boating public. The  
10 department may coordinate with other states on inspection requirements  
11 and may determine when other state inspections meet Washington  
12 standards.

13 (2) All port districts, privately or publicly owned marinas, state  
14 parks, and other state agencies or political subdivisions that own or  
15 lease a boat launch must display a sign as described under subsection  
16 (1) of this section. The department shall provide the signs to all  
17 port districts, privately or publicly owned marinas, state parks, and  
18 other state agencies managing boat launches. Signs must be posted in  
19 a location near the boat launch to provide maximum visibility to the  
20 public.

21 (3) The department or its designee shall provide an inspection of  
22 a watercraft to the person requesting the inspection. The department  
23 or its designee shall provide an inspection receipt verifying that the  
24 watercraft is not contaminated.

25 (4) The department shall provide training to all department  
26 employees that are deployed in the field to provide for efficient and  
27 timely response and inspections of recreational and commercial  
28 watercraft.

29 **Sec. 4.** RCW 77.15.253 and 2002 c 281 s 4 are each amended to read  
30 as follows:

31 (1) A person is guilty of unlawful use of a prohibited aquatic  
32 animal species if he or she possesses, imports, purchases, sells,  
33 propagates, transports, or releases a prohibited aquatic animal species  
34 within the state, except as provided in this section.

35 (2) Unless otherwise prohibited by law, a person may:

36 (a) Transport prohibited aquatic animal species to the department,

1 or to another destination designated by the director, in a manner  
2 designated by the director, for purposes of identifying a species or  
3 reporting the presence of a species;

4 (b) Possess a prohibited aquatic animal species if he or she is in  
5 the process of removing it from watercraft or equipment in a manner  
6 specified by the department;

7 (c) Release a prohibited aquatic animal species if the species was  
8 caught while fishing and it is being immediately returned to the water  
9 from which it came; or

10 (d) Possess, transport, or release a prohibited aquatic animal  
11 species as the commission may otherwise prescribe.

12 (3) Unlawful use of a prohibited aquatic animal species is a gross  
13 misdemeanor. A subsequent violation of subsection (1) of this section  
14 within five years is a class C felony.

15 (4) A person is guilty of unlawful release of a regulated aquatic  
16 animal species if he or she releases a regulated aquatic animal species  
17 into state waters, unless allowed by the commission.

18 (5) Unlawful release of a regulated aquatic animal species is a  
19 gross misdemeanor.

20 (6) A person is guilty of unlawful release of an unlisted aquatic  
21 animal species if he or she releases an unlisted aquatic animal species  
22 into state waters without requesting a commission designation under RCW  
23 77.12.020.

24 (7) Unlawful release of an unlisted aquatic animal species is a  
25 gross misdemeanor.

26 (8) This section does not apply to:

27 (a) The transportation or release of organisms in ballast water;

28 (b) A person stopped at an aquatic invasive species check station  
29 who possesses watercraft or equipment that is contaminated with a  
30 prohibited, regulated, or unlisted aquatic animal species, if that  
31 person complies with all department directives for the proper  
32 decontamination of the watercraft and equipment; or

33 (c) A person who has voluntarily submitted a recreational or  
34 commercial watercraft for inspection by the department and has received  
35 a receipt verifying that the watercraft is not contaminated.

36 **Sec. 5.** RCW 77.15.290 and 2002 c 281 s 7 are each amended to read  
37 as follows:

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

3 (a) Knowingly imports, moves within the state, or exports fish,  
4 shellfish, or wildlife in violation of any rule of the commission or  
5 the director governing the transportation or movement of fish,  
6 shellfish, or wildlife and the transportation does not involve big  
7 game, endangered fish or wildlife, deleterious exotic wildlife, or  
8 fish, shellfish, or wildlife having a value greater than two hundred  
9 fifty dollars; or

10 (b) Possesses but fails to affix or notch a big game transport tag  
11 as required by rule of the commission or director.

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

14 (a) Knowingly imports, moves within the state, or exports fish,  
15 shellfish, or wildlife in violation of any rule of the commission or  
16 the director governing the transportation or movement of fish,  
17 shellfish, or wildlife and the transportation involves big game,  
18 endangered fish or wildlife, deleterious exotic wildlife, or fish,  
19 shellfish, or wildlife with a value of two hundred fifty dollars or  
20 more; or

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

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

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

28 (4) A person is guilty of unlawful transport of aquatic plants if  
29 the person transports aquatic plants on any state or public road,  
30 including forest roads, except as provided in this section.

31 (5) Unless otherwise prohibited by law, a person may transport  
32 aquatic plants:

33 (a) To the department, or to another destination designated by the  
34 director, in a manner designated by the department, for purposes of  
35 identifying a species or reporting the presence of a species;

36 (b) When legally obtained for aquarium use, wetland or lakeshore  
37 restoration, or ornamental purposes;

1 (c) When transporting a commercial aquatic plant harvester to a  
2 suitable location for purposes of removing aquatic plants;

3 (d) In a manner that prevents their unintentional dispersal, to a  
4 suitable location for disposal, research, or educational purposes; or

5 (e) As the commission may otherwise prescribe.

6 (6) Unlawful transport of aquatic plants is a misdemeanor.

7 (7) This section does not apply to: (a) Any person stopped at an  
8 aquatic invasive species check station who possesses watercraft or  
9 equipment that is contaminated with a prohibited aquatic animal or  
10 plant species if that person complies with all department directives  
11 for the proper decontamination of the watercraft and equipment; or (b)  
12 any person who has voluntarily submitted a recreational or commercial  
13 watercraft for inspection by the department or its designee and has  
14 received a receipt verifying that the watercraft is not contaminated.

15 NEW SECTION. Sec. 6. A new section is added to chapter 77.15 RCW  
16 to read as follows:

17 (1) A person is guilty of unlawfully avoiding aquatic invasive  
18 species check stations if the person fails to:

19 (a) Obey check station signs; or

20 (b) Stop and report at a check station if directed to do so by a  
21 uniformed fish and wildlife officer.

22 (2) Unlawfully avoiding aquatic invasive species check stations is  
23 a gross misdemeanor.

24 NEW SECTION. Sec. 7. A new section is added to chapter 77.15 RCW  
25 to read as follows:

26 (1) A person is guilty of unlawfully introducing a prohibited  
27 aquatic animal species if the person fails to:

28 (a) Have a vessel inspected by state patrol officers or state fish  
29 and wildlife officers prior to launching the vessel in Washington  
30 waters; and

31 (b) The vessel is contaminated with an aquatic invasive species, as  
32 defined by the department.

33 (2) The penalty for unlawfully introducing a prohibited aquatic  
34 animal species may include forfeiture of the contaminated watercraft,  
35 under RCW 77.15.070.

1        NEW SECTION.   **Sec. 8.**   A new section is added to chapter 77.12 RCW  
2 to read as follows:

3        The department shall develop a programmatic environmental impact  
4 statement to address the department's plan for treatment and immediate  
5 response to the introduction to Washington waters of a prohibited  
6 aquatic invasive species.

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