

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 274, As Amended in the Senate

BY WAYS AND MEANS COMMITTEE

AN ACT

1 RELATING TO THE IDAHO INVASIVE SPECIES ACT; AMENDING CHAPTER 8, TITLE 67,
2 IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-822, IDAHO CODE, TO
3 ESTABLISH WITHIN THE OFFICE OF THE GOVERNOR A POSITION TO BE FILLED BY
4 AN INDIVIDUAL TO ACT AS AN ADMINISTRATOR OF INVASIVE SPECIES POLICY
5 AND TO PROVIDE DUTIES OF THE ADMINISTRATOR; AMENDING SECTION 22-1903,
6 IDAHO CODE, TO REQUIRE THE INVASIVE SPECIES ACT TO BE ADMINISTERED IN
7 CONJUNCTION WITH THE ADMINISTRATOR OF INVASIVE SPECIES POLICY; AMEND-
8 ING CHAPTER 19, TITLE 22, IDAHO CODE, BY THE ADDITION OF A NEW SECTION
9 22-1903A, IDAHO CODE, TO PROVIDE FOR THE IDAHO INVASIVE SPECIES COUN-
10 CIL; AMENDING SECTION 22-1904, IDAHO CODE, TO REVISE DEFINITIONS;
11 AMENDING SECTION 22-1906, IDAHO CODE, TO REVISE THE DUTIES OF THE DI-
12 RECTOR OF THE IDAHO STATE DEPARTMENT OF AGRICULTURE AND THE DUTIES OF
13 THE DEPARTMENT; AMENDING SECTION 22-1908, IDAHO CODE, TO AUTHORIZE
14 THE DIRECTOR TO APPLY FOR SEARCH WARRANTS UNDER CERTAIN CONDITIONS, TO
15 PROVIDE FOR THE EXAMINATION OF CONVEYANCES FOR THE PRESENCE OF AQUATIC
16 INVASIVE SPECIES, TO PROVIDE THAT CERTAIN CHECK STATIONS MAY BE PRIORI-
17 TIZED TO HAVE EXTENDED OPERATING HOURS AND TO PROVIDE PENALTIES FOR ANY
18 PERSON FAILING TO STOP AT A CHECK STATION; AMENDING SECTION 22-1912,
19 IDAHO CODE, TO PROVIDE THAT THE DIRECTOR SHALL PURSUE FEDERAL GOVERN-
20 MENT PARTNERSHIPS AND FUNDING, TO SPECIFY CONDITIONS AND TO MAKE TECH-
21 NICAL CORRECTIONS; AMENDING SECTION 22-1914, IDAHO CODE, TO PROVIDE
22 THAT THE DIRECTOR UNDER CERTAIN CONDITIONS SHALL ENTER INTO COOPERATIVE
23 AGREEMENTS, TO PROVIDE THAT UNDER CERTAIN CONDITIONS THE DEPARTMENT MAY
24 CONDUCT NECESSARY CONTROL MEASURES AND TO PROVIDE FOR FORMAL MEMORANDA
25 OF AGREEMENT WITH CERTAIN ENTITIES; AND DECLARING AN EMERGENCY.
26

27 Be It Enacted by the Legislature of the State of Idaho:

28 SECTION 1. That Chapter 8, Title 67, Idaho Code, be, and the same is
29 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
30 ignated as Section 67-822, Idaho Code, and to read as follows:

31 67-822. COORDINATION OF POLICY AND PROGRAMS RELATED TO INVASIVE
32 SPECIES. (1) There is hereby established in the office of the governor, a
33 position to be filled by an individual to act as an administrator of invasive
34 species policy. The administrator of invasive species policy shall be the
35 official in the state designated to oversee and execute the coordination
36 of invasive species programs within the state of Idaho. The administrator
37 shall be appointed by and shall serve at the pleasure of the governor, and
38 shall be subject to confirmation by the state senate. The administrator
39 of invasive species policy shall act as policy advisor to the department
40 of agriculture, the fish and game department, the department of parks and
41 recreation, and other state, local, federal and private sector agencies and
42 organizations with the goal of combating harmful invasive species infesta-

1 tions throughout the state and preventing the introduction of others that
2 may be potentially harmful.

3 (2) The administrator of invasive species policy shall:

4 (a) Cooperate and consult with local, state and federal agencies, the
5 legislature, the congress and the states and provinces within the pa-
6 cific northwest economic region on programs, policies and issues in
7 combating invasive species infestations in Idaho;

8 (b) Serve as a lead to prioritize actions, compile a regional cost doc-
9 ument, establish reciprocity for watercraft inspections across geopo-
10 litical boundaries, make data and information more widely available,
11 and ensure effective and complete monitoring by the department of agri-
12 culture and any other necessary agencies;

13 (c) Serve as a repository of agreements, contracts and plans concern-
14 ing programs for the identification and eradication of invasive species
15 with other relevant local, state and federal agencies and shall facili-
16 tate the exchange of this information and data with relevant interstate
17 and intrastate entities;

18 (d) Provide input and comment on community, tribal and federal plans,
19 agreements and policies in relation to invasive species;

20 (e) Coordinate public and private entities to develop, create and pro-
21 mote statewide campaigns to prevent and eradicate invasive species in
22 Idaho;

23 (f) Promote and track actions that address existing gaps in state and
24 federal legislation;

25 (g) Recommend actions to enhance awareness, understanding and appre-
26 ciation of the economic and natural resource significance of the threat
27 of high-risk invasive species to the pacific northwest region and to en-
28 hance political will and effectuate positive changes in public behav-
29 ior;

30 (h) Develop strategies to ensure equitable, long-term sustainable
31 funding for invasive species prevention; and

32 (i) Foster coordinated approaches that support local initiatives for
33 the prevention and control of invasive species.

34 SECTION 2. That Section 22-1903, Idaho Code, be, and the same is hereby
35 amended to read as follows:

36 22-1903. ADMINISTRATION. This chapter shall be administered by the
37 Idaho state department of agriculture, in consultation with the administra-
38 tor of invasive species policy as provided for in section 67-822, Idaho Code.

39 SECTION 3. That Chapter 19, Title 22, Idaho Code, be, and the same is
40 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
41 ignated as Section 22-1903A, Idaho Code, and to read as follows:

42 22-1903A. IDAHO INVASIVE SPECIES COUNCIL. (1) There is hereby estab-
43 lished the Idaho invasive species council, which shall be chaired by the
44 administrator of invasive species policy, as a joint effort between local,
45 tribal, state and federal governments, as well as profit and not-for-profit
46 private entities. The purpose of the council is to foster coordinated ap-

1 proaches that support local initiatives for the prevention and control of
2 invasive species.

3 (2) The council's responsibilities shall be:

4 (a) To provide policy level recommendations and planning assistance
5 for combating harmful invasive species infestations throughout the
6 state and preventing the introduction of others that may be potentially
7 harmful;

8 (b) To serve as a nonpartisan forum for identifying and understanding
9 invasive species issues;

10 (c) To recommend steps for implementing actions proposed in the strate-
11 gic action plan for invasive species;

12 (d) To take measures that will encourage control and prevention of
13 harmful nonnative species;

14 (e) To organize and streamline the process for identifying and control-
15 ling invasive species among all stakeholders;

16 (f) To consider ways to halt the spread of invasive species as well as
17 finding possible ways to bring current problems under control;

18 (g) To consider merging the strategic action plan for invasive species,
19 the strategic plan for controlling noxious and invasive weeds and other
20 plans and strategies that guide the implementation of efforts pertain-
21 ing to noxious weeds and invasive species.

22 (3) Membership shall include the administrator of invasive species
23 policy; the directors, or their designees, of the following state entities:
24 The Idaho state department of agriculture, the department of environmental
25 quality, the department of parks and recreation, the department of fish and
26 game, the department of lands, the department of water resources, the de-
27 partment of commerce and the Idaho transportation department; and the office
28 of species conservation.

29 (4) Representatives and members of federal entities, local government
30 organizations, tribal governments, Idaho universities and private and not-
31 for-profit organizations with an interest in the well-being of Idaho per-
32 taining to invasive species shall be invited to participate by the adminis-
33 trator of invasive species policy.

34 (5) Additional members may be added by consensus of the council.

35 (6) The council shall meet no less than twice annually.

36 (7) The council shall submit an annual report of its activities to the
37 governor and to the agricultural affairs committee of the Idaho house of rep-
38 resentatives and the agricultural affairs committee of the Idaho senate.

39 SECTION 4. That Section 22-1904, Idaho Code, be, and the same is hereby
40 amended to read as follows:

41 22-1904. DEFINITIONS. Unless otherwise noted in this chapter the def-
42 initions as set forth in section 22-2005, Idaho Code, are adopted by refer-
43 ence.

44 (1) "Conveyance" means a terrestrial or aquatic vehicle or a vehicle
45 part that may carry or contain an invasive species or plant pest. A con-
46 veyance includes ~~a motor vehicle~~, a vessel, a motorboat, a sailboat, a per-
47 sonal watercraft, a trailer, the exterior of a motor vehicle or any other
48 means or method of transportation. "Conveyance" also includes a live well or
49 a bilge area of a watercraft.

1 (2) "Environmental harm" means to cause significant adverse effects on
2 uses of natural resources or on plants or animals.

3 (3) "Invasive species" means species not native to Idaho, including
4 their seeds, eggs, spores, larvae or other biological material capable of
5 propagation, that cause economic or environmental harm and are capable of
6 spreading in the state. "Invasive species" does not include crops, improved
7 forage grasses, domestic livestock, or other beneficial nonnative organ-
8 isms.

9 SECTION 5. That Section 22-1906, Idaho Code, be, and the same is hereby
10 amended to read as follows:

11 22-1906. DUTIES OF THE DEPARTMENT AND DIRECTOR. The department may
12 prevent and control, by such means as shall be prescribed and provided by
13 law, rule or by order of the department, all invasive species that may cause
14 economic or environmental harm to the state. The director shall:

15 (1) After due investigation, report the detection of new invasive
16 species within the state to the appropriate state and federal officials.

17 (2) Issue permits for the transport or possession of an invasive
18 species into, within or through the state of Idaho. Permits shall include
19 requirements to ensure the containment of that species, as may be prescribed
20 in rule.

21 (3) Develop and administer an early detection and rapid response proto-
22 col for Idaho in conjunction with appropriate entities.

23 (4) Identify and enter into cooperative agreements with appropriate
24 entities.

25 (5) Pursue funding from any other lawful source including, without lim-
26 itation, gifts, grants, legacies of money, property, securities or other as-
27 sets, or any other source, public or private, subject to the limitations set
28 forth in section 22-1912(2), Idaho Code.

29 (6) Provide ongoing education and training to check station inspec-
30 tors.

31 (7) Develop a strategic plan that contains a long-term strategy with
32 goals for all invasive species and addresses, at a minimum, scouting and
33 monitoring, early detection, rapid response and eradication. The strategic
34 plan shall be developed in conjunction with the administrator of invasive
35 species policy as provided for in section 67-822, Idaho Code.

36 (8) Engage in opportunities to harmonize all relevant statutes includ-
37 ing, but not limited to, noxious weed law, plant pest act, deleterious exotic
38 animal law and any relevant enforcement and wildlife statutes.

39 (9) Report to the agricultural affairs committee of the Idaho house of
40 representatives and to the agricultural affairs committee of the Idaho sen-
41 ate at least annually on the details and all aspects of the functioning of the
42 invasive species program.

43 These duties shall not usurp existing provisions of the Idaho Code, programs
44 that deal with invasive species issues, or the individual missions of any
45 state agency or duplicate efforts existing upon passage of this act.

46 SECTION 6. That Section 22-1908, Idaho Code, be, and the same is hereby
47 amended to read as follows:

1 22-1908. AUTHORITY TO CONDUCT INSPECTIONS. (1) In order to accomplish
2 the purposes of this chapter, the director may enter upon and inspect any
3 public or private premises, lands, bodies of water, or means of conveyance,
4 or article of any person within this state, for the purpose of inspecting,
5 surveying, treating, controlling, collecting samples, or destroying any in-
6 vasive species. In the event access is denied, the director is authorized to
7 apply to any court of competent jurisdiction for a search warrant authoriz-
8 ing access for the purposes set forth in this chapter.

9 (2) The director may establish check stations at points of entry to the
10 state, or other facilities and sites throughout the state, as necessary to
11 carry out the provisions of this chapter. Check station inspectors shall
12 examine all conveyances for the presence of any type of aquatic invasive
13 species, both plant and animal. The director shall allocate resources so as
14 to give priority to extending operating hours for any check station located
15 in close proximity to an infested water body or to the boundary with another
16 state or province.

17 (3) No person shall proceed past or travel through an established in-
18 spection station during its hours of operation while towing, carrying or
19 transporting any conveyance without presenting such conveyance for inspec-
20 tion. Any person who violates this subsection is subject to the penalties
21 set forth in section 22-1913, Idaho Code.

22 SECTION 7. That Section 22-1912, Idaho Code, be, and the same is hereby
23 amended to read as follows:

24 22-1912. CONTROL AND ERADICATION COSTS -- DEFICIENCY WARRANTS --
25 COOPERATION WITH OTHER ENTITIES AND CITIZENS. (1) Whenever the director
26 determines that there exists the threat of an infestation of an invasive
27 species on state-owned land or water, private, forested, range or agricul-
28 tural land or water, and that the infestation is of such a character as to
29 be a menace to state, private, range, forest or agricultural land or water,
30 the director shall cause the infestation to be controlled and eradicated,
31 using such moneys as have been appropriated or may hereafter be made avail-
32 able for such purposes. Provided however, that whenever the cost of control
33 and eradication exceeds the moneys appropriated or otherwise available for
34 that purpose, the state board of examiners may authorize the issuance of
35 deficiency warrants against the general fund for up to five million dollars
36 (\$5,000,000) in any one (1) year for such control and eradication. Control
37 and eradication costs may include, but are not limited to, costs for sur-
38 vey, detection, inspection, enforcement, diagnosis, treatment and disposal
39 of infected or infested materials, cleaning and disinfecting of infected
40 premises or vessels and indemnity paid to owners for infected or infested
41 materials destroyed by order of the director.

42 (2) The director, in executing the provisions of this chapter insofar
43 as it relates to control and eradication, shall have the authority to cooper-
44 ate with federal, state, county and municipal agencies and private citizens
45 in control and eradication efforts; provided, that in the case of joint fed-
46 eral/state programs, state moneys shall only be used to pay the state's share
47 of the cost of the control and eradication efforts. Such moneys for which the
48 state shall thus become liable shall be paid as a part of the expenses of the
49 Idaho state department of agriculture out of appropriations that shall be

1 made by the legislature for that purpose from the general fund of the state.
2 In all appropriations hereafter made for expenses of the department, account
3 shall be taken of and provision made for this item of expense. Eradication of
4 invasive species is a matter of national concern, transcending state lines.
5 In order to minimize the financial impact of control and eradication costs
6 to the state, the director shall actively pursue partnerships with the fed-
7 eral government and take advantage of any associated federal funds available
8 to Idaho. Provided however, such grants shall be specifically related to
9 the invasive species eradication objectives of this chapter, and receipt of
10 which shall not obligate the state beyond the invasive species eradication
11 objectives of this chapter, or impede or preempt other state duties and pow-
12 ers, including but not limited to, compliance with the requirements of this
13 chapter, without the explicit approval of the legislature.

14 SECTION 8. That Section 22-1914, Idaho Code, be, and the same is hereby
15 amended to read as follows:

16 22-1914. COOPERATIVE AGREEMENTS. (1) The department ~~may~~ shall, when
17 appropriate, enter into cooperative agreements with persons and entities
18 including, but not limited to, civic groups and governmental agencies, to
19 adopt and execute plans to detect and control areas infested with invasive
20 species. Such cooperative agreements may include provisions for funding to
21 implement agreements.

22 (2) If an invasive species occurs and cannot be adequately controlled
23 by individual persons, owners, tenants or local units of government, the de-
24 partment may conduct the necessary control measures ~~independently or~~ on a
25 cooperative basis with federal or other units of government and the owners
26 and operators of any affected property or facilities.

27 (3) The department shall have the authority to delegate selected and
28 clearly identified elements of its authorities and duties to another agency
29 of the state with appropriate expertise or administrative capacity upon mu-
30 tual agreement with that agency. The department is authorized to enter into
31 formal memoranda of agreement with other state agencies, including but not
32 limited to, the Idaho state police, the Idaho department of fish and game and
33 the Idaho transportation department, and with appropriate Idaho counties,
34 local government and local law enforcement officials, to implement the del-
35 egations authorized in this subsection. Such delegation may include pro-
36 visions of funding for implementation of the delegations. The department
37 shall retain primary authority and responsibility for all requirements of
38 this chapter unless otherwise directed herein.

39 SECTION 9. An emergency existing therefor, which emergency is hereby
40 declared to exist, this act shall be in full force and effect on and after its
41 passage and approval.