

1 SENATE BILL NO. 343

2 INTRODUCED BY V. JACKSON, TAYLOR, MURPHY, EDMUNDS, WALKER, VINCENT, MOWBRAY,
 3 MCGILLVRAY, HARRIS, LEWIS, G. BENNETT, SALOMON, BLEWETT, AUGARE, GALLUS, LARSEN,
 4 INGRAHAM, BECK, ZINKE, MEHLHOFF, CAFERRO, O'NEIL, HENDRICK, FACEY, VANCE, BRANAE,
 5 KAUFMANN, OSMUNDSON, ARNTZEN, HAWKS, WANZENRIED, MOSS, LONEY, ARTHUN, PRIEST,
 6 J. PETERSON, REGIER, BLASDEL, SESSO, REICHNER, BRODEHL, CONNELL, SKEES, HOVEN, READ,
 7 SKATTUM, HAMLETT, K. WILLIAMS, HALE, LAVIN, O'HARA, J. SONJU

8
 9 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE MONTANA AQUATIC INVASIVE SPECIES ACT;
 10 REVISING DEFINITIONS; REVISING DEPARTMENTAL RESPONSIBILITIES AND RULEMAKING AUTHORITY;
 11 AUTHORIZING THE USE OF QUARANTINE MEASURES IN AN INVASIVE SPECIES MANAGEMENT AREA;
 12 CLARIFYING WHEN INVASIVE SPECIES MANAGEMENT AREAS MAY BE ESTABLISHED; AUTHORIZING
 13 IMPOUNDMENT OF CERTAIN VESSELS FOR DECONTAMINATION; PROVIDING ENFORCEMENT
 14 PROVISIONS; AMENDING SECTIONS 80-7-1002, 80-7-1003, 80-7-1006, 80-7-1007, 80-7-1008, 80-7-1011,
 15 AND 80-7-1014, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

16
 17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

18
 19 **Section 1.** Section 80-7-1002, MCA, is amended to read:

20 **"80-7-1002. Legislative findings and purpose.** (1) The legislature finds that:

21 (a) invasive species can wreak damage on the economy, environment, recreational opportunities, and
 22 human health in Montana;

23 (b) there is reason to be concerned about the further introduction, importation, and infestation of Eurasian
 24 watermilfoil (*Myriophyllum spicatum*) and the introduction, importation, and infestation of additional invasive
 25 species ~~not yet present~~ in Montana, such as the zebra mussel (*Dreissena polymorpha*) and the quagga mussel
 26 (*Dreissena bugensis*), that could cause catastrophic damage to not only our waterways, rivers, and lakes, our
 27 water storage, delivery, and irrigation systems, our hydroelectric power structures and systems, and our aquatic
 28 ecosystems, but also to the entire state economy;

29 (c) as infestations of threatening invasive species move ever closer to Montana's borders, protecting
 30 Montana against these species is of utmost importance to the state economy, environment, recreational

1 opportunities, and human health for the benefit of all Montanans;

2 (d) preventing the introduction, importation, and infestation of invasive species is the most effective and
3 least costly strategy for combating invasive species that, once established, are often difficult to control or
4 eradicate;

5 (e) the use of check stations, at which ~~the exterior of~~ vessels may be inspected for the presence of
6 invasive species and cleaned if an invasive species is detected, is an effective way to prevent the introduction,
7 importation, and infestation of invasive species that are easily transferred from infested areas to uninfested areas
8 when proper precautions are not taken; and

9 (f) preventing the introduction, importation, and infestation of invasive species is best accomplished
10 through coordinated educational and management activities.

11 (2) The purpose of this part is to establish a mechanism for Montana to take concerted action to detect,
12 control, and manage invasive species, including preventing further introduction, importation, and infestation, by
13 educating the public about the threat of these species, coordinating public and private efforts and expertise to
14 combat these species, and authorizing the use of check stations to prevent the intrastate movement of invasive
15 species from infested areas to uninfested areas to protect the state's economy, environment, recreational
16 opportunities, and human health for the benefit of all Montanans."

17

18 **Section 2.** Section 80-7-1003, MCA, is amended to read:

19 **"80-7-1003. Definitions.** As used in this part, the following definitions apply:

20 (1) "Departments" means the department of agriculture and the department of fish, wildlife, and parks.

21 (2) "Invasive species" means, ~~upon the mutual agreement of the directors of the departments of~~
22 ~~agriculture and fish, wildlife, and parks,~~ UPON THE MUTUAL AGREEMENT OF THE DIRECTORS OF THE DEPARTMENTS
23 OF AGRICULTURE AND FISH, WILDLIFE, AND PARKS, a nonnative, aquatic ~~plant or animal~~ species that ~~threatens the~~
24 ~~diversity or abundance of native species or the ecological stability of infested waters~~ or has caused, is causing,
25 or is likely to cause harm to the economy, environment, recreational opportunities, or human health.

26 (3) "Invasive species management area" means a designation made by a department for a specific area,
27 for a body or bodies of water, or for the entire state for a specific or indeterminate amount of time that regulates
28 invasive species or potential carriers of invasive species within the boundaries of that area.

29 (4) "Person" means an individual, partnership, corporation, association, limited partnership, limited
30 liability company, governmental subdivision, agency, or public or private organization of any character.

1 (5) "Vessel" ~~has the meaning provided in 61-4-104~~ INCLUDES MOTORBOATS AND PERSONAL WATERCRAFT,
 2 AS EACH IS DEFINED IN 23-2-502, AND NONMOTORIZED BOATS."

3

4 **Section 3.** Section 80-7-1006, MCA, is amended to read:

5 **"80-7-1006. Departmental responsibilities.** (1) The departments shall prepare, ~~maintain, and distribute~~
 6 a list of invasive species ~~and any water bodies in Montana contaminated by those species~~ and identify those
 7 departments and other public agencies with jurisdiction over each species on the list. The jurisdiction of each
 8 department for the prevention and control of invasive species is according to the department's powers and duties
 9 as established by law.

10 (2) For those invasive species under the jurisdiction of more than one department, the departments with
 11 jurisdiction, through cooperative agreement, shall seek to clarify and coordinate their respective responsibilities.

12 (3) Working in collaboration with each other, the departments, individually or collectively, shall develop
 13 and adopt an invasive species strategic plan or plans to accomplish the purposes of this part. The plan or plans
 14 shall identify and prioritize threats and determine appropriate actions, in the following order of priority, related to:

15 (a) public awareness and education;

16 (b) prevention and detection of invasive species, including the use of invasive species management
 17 areas authorized under 80-7-1008;

18 (c) management, control, and restoration of infested areas; and

19 (d) emergency response.

20 (4) The departments may enforce quarantine regulations and measures:

21 (a) imposed by law or rule in an invasive species management area, including the mandatory inspection
 22 of any interior portion of a vessel that may contain water for the presence of an invasive species;

23 (b) for isolation and decontamination of vessels upon or in which an invasive species is detected; and

24 (c) that are appropriate to an emergency declared by the governor under 80-7-1013.

25 (5) The departments shall develop generic strategic plans that may be tailored to various locations for
 26 implementation as needed to prevent the introduction of invasive species and to control and, when possible,
 27 eradicate an invasive species.

28 ~~(4)(6)~~ The departments shall:

29 ~~(a)~~ implement education and outreach programs that increase public knowledge and understanding of
 30 prevention, early detection, and control of invasive species; ~~and~~

1 ~~_____ (b) provide public notice of an infested water body through various media sources. This may include but~~
 2 ~~is not limited to newspapers of general circulation nearest to the infested area and broadcast of public service~~
 3 ~~announcements."~~

4

5 **Section 4.** Section 80-7-1007, MCA, is amended to read:

6 **"80-7-1007. Rulemaking authority.** Unless otherwise provided in Title 81, chapters 2 and 7, or this
 7 chapter, each of the departments may adopt rules for the prevention, early detection, and control of invasive
 8 species under the departments' jurisdiction, including rules for the:

- 9 (1) implementation of an invasive species strategic plan;
 10 (2) transportation of an invasive species or any agent likely to be a carrier of an invasive species;
 11 (3) designation, regulation, and treatment of an invasive species management area, including rules
 12 pertaining to:

13 (a) the use of quarantine regulations and measures;

14 (b) closure of docks or ramps;

15 (c) the movement of vessels within, to, or from the area; and

16 (d) the inspection and cleaning of the exterior of vessels moving within, to, or from the area; and

17 (e) any prohibition on the use of vessels in the area;

- 18 (4) manner in which vessels, including bilges, livewells, bait containers, and other boating-related
 19 equipment, traveling in the state must be cleaned to ensure that they are free from the presence of an invasive
 20 species."

21

22 **Section 5.** Section 80-7-1008, MCA, is amended to read:

23 **"80-7-1008. Invasive species management area -- authorization.** (1) ~~When~~ In order to conduct
 24 mandatory inspections of vessels at key points of entry to the state on a seasonal basis or when an invasive
 25 species is identified as infesting or threatening an area, including when larvae of an invasive species are
 26 ~~discovered or suspected to have been discovered in any water in this state,~~ the department with jurisdiction over
 27 that invasive species may designate and administer an invasive species management area for a specific area
 28 of land, for a body or bodies of water, or for the entire state for a specific or indeterminate amount of time to
 29 prevent and control the infestation or spread of that invasive species.

30 (2) To the extent practicable, prior to the designation of an invasive species management area, the

1 department making the designation shall coordinate with all of the departments in order to further the purposes
2 of this part.

3 (3) The designation of an invasive species management area must specify:

4 (a) the invasive species present or considered threatening; and

5 (b) ~~(i)~~ subject to subsection ~~(3)(b)(ii)~~ (4), the method or methods for preventing the introduction of the
6 species or controlling or eradicating the species, including regulations pertaining to:

7 (i) the use of quarantine measures;

8 (ii) closure of docks or ramps;

9 (iii) the movement of vessels within, to, and from the area;

10 (iv) any prohibition on the use of vessels in the area; and whether

11 (v) where check stations will be used established to inspect and clean the exterior of vessels moving
12 within, to, or from the area. A department may conduct mandatory inspections of any interior portion of a vessel
13 that may contain water only if the department has included the use of mandatory inspections as part of quarantine
14 measures established pursuant to subsection (3)(b)(i).

15 ~~(ii)(4)~~ If the invasive species management area encompasses the entire state, departmental authority to
16 prescribe requirements for cleaning and inspecting ~~the exterior of~~ vessels traveling within the state is limited to
17 those vessels required to stop at a check station pursuant to 80-7-1011(3)(b).

18 ~~(4)(5)~~ As far as practical, signs indicating that an invasive species management area is in place must be
19 posted in an effective manner at access points to the designated area and along the boundaries and within the
20 area. ~~Signs must be posted at all public access points to bodies of water located within the area.~~ The signs must
21 include information about the specific regulations that apply to the area. The signs must be paid for with funds
22 from the invasive species account established in 80-7-1004. The departments may coordinate with any other
23 governmental entity for the posting of signs."
24

25 **Section 6.** Section 80-7-1011, MCA, is amended to read:

26 **"80-7-1011. Check stations.** (1) The departments shall establish a check station within or adjacent to
27 an invasive species management area to prevent the introduction, importation, infestation, and spread of the
28 invasive species for which the designation was issued.

29 (2) At a check station, the departments may examine ~~the exterior of~~ vessels for the presence of an
30 invasive species and compliance with regulations imposed under 80-7-1008(3)(b) and with this section. A

1 department may examine any interior portion of a vessel that may contain water, including bilges, livewells, bait
 2 containers, and other boating-related equipment, for compliance only if inspection of interior portions is included
 3 as part of quarantine measures established pursuant to 80-7-1008(3)(b)(i).

4 (3) (a) Except as provided in subsection (3)(b), the owner, operator, or person in possession of a vessel
 5 shall stop at any check station unless a medical emergency makes stopping likely to result in death or serious
 6 bodily injury. The departments may report a violation of this subsection to any law enforcement agency, uniformed
 7 peace officer, or fish and game warden of the state.

8 (b) ~~If a check station is established under regulations pertaining to a statewide invasive species~~
 9 ~~management area, a stop at that~~ Stopping at a check station is required only for a vehicle transporting a vessel,
 10 excluding vessels that have never been used.

11 (4) (a) ~~Except as provided in subsection (4)(b), if during an inspection of the exterior of a vessel the~~
 12 ~~presence of an invasive species is detected upon the exterior of the vessel, that vessel may not leave the check~~
 13 ~~station until it is cleaned and decontaminated in a manner established in accordance with 80-7-1008(3)(b).~~

14 (b) If during an inspection the departments detect the presence of an invasive species for which the
 15 check station is not equipped to provide decontamination, the departments may quarantine and impound the
 16 vessel for decontamination at the nearest designated facility. A vessel may be impounded for no longer than 10
 17 calendar days. If decontamination is not completed within the 10-day period, the owner, operator, or person in
 18 possession of the vessel when it was impounded may reclaim the vessel and is not subject to penalties under
 19 80-7-1014."

20
 21 **Section 7.** Section 80-7-1014, MCA, is amended to read:

22 **"80-7-1014. Penalty -- enforcement.** (1) Except as provided in subsection ~~(2)~~ (3), the following penalties
 23 apply:

24 (a) The offense of negligently violating the provisions of 80-7-1010 through 80-7-1012 or rules adopted
 25 under 80-7-1010 through 80-7-1012 pertaining to an invasive species management area is a misdemeanor
 26 punishable by a fine not to exceed \$500.

27 (b) The offense of purposely or knowingly violating the provisions of 80-7-1010 through 80-7-1012 or
 28 rules adopted under 80-7-1010 through 80-7-1012 pertaining to an invasive species management area is a
 29 misdemeanor punishable by a fine not to exceed \$1,000.

30 (c) Purposely or knowingly attempting to introduce an invasive species in Montana is a felony. Any

1 person found guilty under this subsection (1)(c) is subject to a criminal penalty of up to 2 years in prison, a fine
2 not to exceed \$5,000, or both. A person convicted of violating this subsection (1)(c) may also be required to pay
3 restitution for any cost incurred to mitigate the effect of the violation.

4 (d) A civil penalty not to exceed \$250 may be imposed on any person who violates any other provision
5 of 80-7-1010 through 80-7-1012 or rules adopted under 80-7-1010 through 80-7-1012 not enumerated in
6 subsections (1)(a) through (1)(c).

7 (2) Investigations and arrests for violations of this part or rules adopted pursuant to this part may be
8 made by any peace officer or fish and game warden.

9 ~~(2)(3)~~ A warning without penalty may be issued to any person violating the provisions of 80-7-1010
10 through 80-7-1012 or rules adopted under 80-7-1010 through 80-7-1012 if it is determined that a warning best
11 serves the public interest.

12 ~~(3)(4)~~ Civil penalties collected under this section must be deposited in the general fund."
13

14 NEW SECTION. Section 8. Severability. If a part of [this act] is invalid, all valid parts that are severable
15 from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part
16 remains in effect in all valid applications that are severable from the invalid applications.

17

18 NEW SECTION. Section 9. Effective date. [This act] is effective on passage and approval.

19

- END -