

HOUSE BILL NO. HB0018

Aquatic invasive species-2.

Sponsored by: Joint Travel, Recreation, Wildlife and
Cultural Resources Interim Committee

A BILL

for

1 AN ACT relating to game and fish and the department of
2 state parks and cultural resources; providing for control
3 of aquatic invasive species; providing for inspection of
4 conveyances; providing for decontamination orders;
5 providing for impoundment and quarantine; providing for
6 rules; providing for inspection fees; providing civil and
7 criminal penalties; authorizing the filling of a vacant
8 position; providing appropriations; providing a continuous
9 appropriation; and providing for an effective date.

10

11 *Be It Enacted by the Legislature of the State of Wyoming:*

12

13 **Section 1.** W.S. 23-4-201 through 23-4-205 are created
14 to read:

15

16

ARTICLE 2

1 AQUATIC INVASIVE SPECIES

2

3 **23-4-201. Definitions.**

4

5 (a) As used in this article:

6

7 (i) "Aquatic invasive species" means exotic or
8 non-native aquatic organisms that have been determined by
9 the commission to pose a significant threat to the aquatic
10 resources, water supplies or water infrastructure of the
11 state;

12

13 (ii) "Conveyance" means a motor vehicle, boat,
14 watercraft, raft, vessel, trailer or any associated
15 equipment or containers, including but not limited to live
16 wells, ballast tanks, bilge areas and water hauling
17 equipment that may contain or carry an aquatic invasive
18 species;

19

20 (iii) "Decontaminate" means to wash, drain, dry
21 or chemically, thermally or otherwise treat a conveyance in
22 accordance with rules promulgated by the commission in
23 order to remove or destroy an aquatic invasive species;

24

1 (iv) "Equipment" means an article, tool,
2 implement or device capable of containing or transporting
3 water or aquatic invasive species;

4
5 (v) "Inspect" means to examine a conveyance
6 pursuant to procedures established by the commission in
7 order to determine whether an aquatic invasive species is
8 present, and includes examining, draining or treating water
9 in the conveyance.

10

11 **23-4-202. Prohibition on aquatic invasive species;**
12 **mandatory conveyance checks; reporting.**

13

14 (a) No person shall:

15

16 (i) Launch any conveyance into the waters of
17 this state without first complying with aquatic invasive
18 species prevention requirements established by commission
19 rule;

20

21 (ii) Possess, import, export, ship, transport or
22 cause to be possessed, imported, exported, shipped or
23 transported an aquatic invasive species in this state,
24 except as authorized by the commission;

1

2 (iii) Introduce an aquatic invasive species into
3 any waters of the state; or

4

5 (iv) Refuse to comply with the inspection
6 requirements or any order issued under this article.

7

8 (b) A person who knows that an unreported aquatic
9 invasive species is present at a specific location in this
10 state shall immediately report that knowledge and all
11 pertinent information to the commission or a peace officer.

12

13 **23-4-203. Enforcement.**

14

15 (a) In order to prevent, control, contain, monitor
16 and whenever possible eradicate aquatic invasive species
17 from the waters of this state, the commission and the
18 department of state parks and cultural resources shall
19 promulgate rules and regulations to administer and enforce
20 the provisions of this article and to establish, operate
21 and maintain aquatic invasive species check stations in
22 order to inspect conveyances.

23

1 (b) Every conveyance shall stop at authorized
2 mandatory aquatic invasive species check stations in
3 accordance with rules established by the commission and the
4 department of state parks and cultural resources. Upon
5 probable cause that an aquatic invasive species may be
6 present, a peace officer may:

7

8 (i) Require the owner of a conveyance to
9 decontaminate the conveyance; or

10

11 (ii) Decontaminate or impound and quarantine the
12 conveyance as provided in this section.

13

14 (c) The commission, in consultation with the
15 department of state parks and cultural resources, may
16 restrict watercraft usage on waters of the state as
17 provided in W.S. 41-13-211(b) upon a finding that a
18 specific body of water is threatened with the imminent
19 introduction of an aquatic invasive species or an aquatic
20 invasive species has been introduced to the specific body
21 of water.

22

1 (d) Any peace officer is authorized to stop and
2 inspect for the presence of aquatic invasive species or for
3 proof of required inspection any conveyance:

4

5 (i) Immediately prior to a boat, vessel or
6 watercraft being launched into waters of the state;

7

8 (ii) Prior to departing from the waters of this
9 state or a boat, vessel or watercraft staging area;

10

11 (iii) That is visibly transporting any aquatic
12 plant material; or

13

14 (iv) Upon a reasonable suspicion that an aquatic
15 invasive species may be present.

16

17 (e) A peace officer may order the decontamination of
18 a conveyance upon a determination that an aquatic invasive
19 species is present after conducting an inspection as
20 provided in this section.

21

22 (f) A peace officer may impound and quarantine a
23 conveyance if:

24

1 (i) The peace officer finds that an aquatic
2 invasive species is present after conducting an inspection
3 authorized by this section;

4

5 (ii) The person transporting the conveyance
6 refuses to submit to an inspection authorized by this
7 section; or

8

9 (iii) The person transporting the conveyance
10 refuses to comply with an order authorized by this section
11 to decontaminate the conveyance.

12

13 (g) An impoundment and quarantine of a conveyance may
14 continue for the reasonable period necessary to inspect and
15 decontaminate the conveyance and to ensure that the aquatic
16 invasive species has been completely eradicated from the
17 conveyance or is no longer living.

18

19 **23-4-204. Rulemaking authority; fees.**

20

21 (a) The commission and the department of state parks
22 and cultural resources shall promulgate rules to administer
23 and enforce the provisions of this article.

24

1 (b) The commission and the department of state parks
2 and cultural resources shall establish and collect fees in
3 accordance with the following:

4
5 (i) An annual fee shall be collected by the
6 commission or the department of state parks and cultural
7 resources for every watercraft before the watercraft enters
8 the waters of the state. Payment of the fees shall be
9 evidenced by a sticker placed on the bow of the watercraft
10 and no person shall operate nor shall the owner permit the
11 operation of any watercraft on the waters of the state
12 without payment of the fees provided in this section and
13 display of the sticker on the bow of the watercraft. For
14 purposes of this paragraph, "watercraft" means any
15 contrivance used or designed primarily for navigation on
16 water but does not include personal flotation devices.

17
18 (ii) Fees shall be established by rule or
19 regulation promulgated in accordance with the Wyoming
20 Administrative Procedure Act;

21
22 (iii) Fees shall be established in an amount to
23 ensure that, to the extent practicable, the total revenue
24 generated from the fees collected approximates, but does

1 not exceed, the direct and indirect costs of administering
2 the regulatory provisions required under this article.

3

4 (c) The department of state parks and cultural
5 resources may collect fees and shall transfer those fees
6 collected to the commission for deposit in the account
7 created pursuant to W.S. 23-1-501(g).

8

9 **23-4-205. Penalties.**

10

11 (a) Any person who violates the provisions of this
12 article or any order under this article is guilty of a high
13 misdemeanor punishable as provided in W.S. 23-6-202(a)(ii).

14

15 (b) In addition to any other criminal penalty
16 provided in this section any person who violates any
17 provision of this article, may be assessed civil penalties
18 in an amount not to exceed the costs incurred by the
19 commission and the department of state parks and cultural
20 resources in enforcing the provisions of this article but
21 shall not include costs associated with the eradication of
22 an aquatic invasive species introduced into the waters of
23 this state. The commission or the department of state
24 parks and cultural resources may bring a civil action in

1 any court of competent jurisdiction for civil penalties or
2 injunctive relief.

3

4 **Section 2.** W.S. 23-1-501 by creating a new subsection
5 (g) is amended to read:

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7 **23-1-501. Game and fish fund.**

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9 (g) An account within the game and fish fund is
10 created. Revenues received pursuant to W.S. 23-4-204 shall
11 be credited to the account and are continuously
12 appropriated to the commission to be expended for the
13 prevention, surveillance, containment and direct and
14 indirect costs associated with the administration of the
15 aquatic invasive species program created under chapter 4,
16 article 2 of this act.

17

18 **Section 3.** There is appropriated two million five
19 hundred thousand dollars (\$2,500,000.00) from the general
20 fund to the game and fish department and five hundred
21 thousand dollars (\$500,000.00) from the general fund to the
22 department of state parks and cultural resources. These
23 appropriations shall be for the period beginning with the
24 effective date of this act and ending June 30, 2012. These

1 appropriations shall only be expended for the purposes of
2 this act. Notwithstanding any other provision of law, these
3 appropriations shall not be transferred or expended for any
4 other purpose and any unexpended, unobligated funds
5 remaining from these appropriations shall revert as
6 provided by law on June 30, 2012. None of these
7 appropriations shall be included in either the game and
8 fish department's or the department of state parks and
9 cultural resources' 2013-2014 standard biennial budget
10 request.

11

12 **Section 4.** The game and fish department is authorized
13 to fill one (1) biologist supervisor full-time equivalent
14 position which is vacant as of the effective date of this
15 act to serve as the coordinator of the program created by
16 this act. The authorization under this section to fill the
17 vacant position shall not be considered to be the filling
18 of a vacant position for purposes of section 314 of 2010
19 House Bill 0001. The general fund appropriation to the
20 game and fish department in section 3 of this section shall
21 be reduced dollar for dollar by any funds appropriated in
22 2010 House Bill 0001 to the department for the vacant
23 position filled pursuant to this section.

24

1 **Section 5.** The legislature recognizes that the
2 program created by this act, in protecting the waters of
3 this state from the deleterious effects of aquatic invasive
4 species will be especially beneficial to the infrastructure
5 owned by the United States bureau of reclamation in this
6 state. Because of these benefits, the game and fish
7 department is directed to make diligent efforts to obtain
8 additional funding for the program created under this act
9 from the United States bureau of reclamation and other
10 federal sources.

11

12 **Section 6.** This act is effective immediately upon
13 completion of all acts necessary for a bill to become law
14 as provided by Article 4, Section 8 of the Wyoming
15 Constitution.

16

17

(END)