

## 1 HOUSE BILL NO. 42

2 INTRODUCED BY N. DURAM

3 BY REQUEST OF THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

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5 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING DEPARTMENTAL RULEMAKING AUTHORITY FOR  
6 AQUATIC INVASIVE PLANTS; PROVIDING DEFINITIONS; AND AMENDING SECTIONS 80-7-1003, 80-7-  
7 1006, AND 80-7-1007, MCA."

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9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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11 **Section 1.** Section 80-7-1003, MCA, is amended to read:

12 **"80-7-1003. Definitions.** As used in this part, the following definitions apply:

13 (1) "Departments" means the department of agriculture, the department of fish, wildlife, and parks, the  
14 department of natural resources and conservation, and the department of transportation.

15 (2) "Equipment" means an implement or machinery that has been wholly or partially immersed in  
16 surface waters, including but not limited to boat lifts, trailers transporting vessels, floating docks, pilings, dredge  
17 pipes, and buoys.

18 (3) "Invasive plant" means a nonnative, aquatic plant that survives in a submerged state.

19 ~~(3)(4) "Invasive species" means, upon the mutual agreement of the directors of the departments, a~~  
20 nonnative, aquatic species, as identified pursuant to 80-7-1006(1), that has caused, is causing, or is likely to  
21 cause harm to the economy, environment, recreational opportunities, or human health. The term includes  
22 invasive plants.

23 ~~(4)(5) "Invasive species management area" means a designation made by a department under 80-7-~~  
24 1008 for a specific area or for a body or bodies of water for a specific or indeterminate amount of time that  
25 regulates invasive species or potential carriers of invasive species within the boundaries of that area.

26 ~~(5)(6) "Person" means an individual, partnership, corporation, association, limited partnership, limited~~  
27 liability company, governmental subdivision, agency, or public or private organization of any character.

28 ~~(6)(7) "Tributaries to the Columbia River" means all water bodies in Montana from which water drains~~

1 into the Columbia River.

2 ~~(7)~~(8) "Vessel" has the meaning provided in 61-1-101."

3

4 **Section 2.** Section 80-7-1006, MCA, is amended to read:

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

10 (b) The department of fish, wildlife, and parks shall prepare a list of invasive plants.

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

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

18 (a) public awareness and education;

19 (b) prevention and detection of invasive species, including the use of invasive species management  
20 areas authorized under 80-7-1008 and the statewide invasive species management area established in 80-7-  
21 1015;

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

23 (d) emergency response.

24 (4) The departments shall enforce quarantine regulations and measures imposed by law or rule in an  
25 invasive species management area established under 80-7-1008 and in the statewide invasive species  
26 management area established in 80-7-1015, including the mandatory inspection or decontamination of any  
27 interior portion of a vessel or equipment that may contain water for the presence of an invasive species.

28 (5) The departments may designate employees to carry out the provisions of this part.

1 (6) The department of fish, wildlife, and parks shall authorize a request by another entity to operate a  
 2 check station pursuant to this part if the entity agrees to the conditions of an agreement established by all  
 3 parties, any cooperative funding requirements, and rules adopted under this part. The department of fish,  
 4 wildlife, and parks retains oversight authority over the operation of a check station pursuant to this subsection.

5 (7) The departments shall implement education and outreach programs that increase public  
 6 knowledge and understanding of prevention, early detection, and control of invasive species.

7 (8) (a) The departments shall report to the environmental quality council at least biannually regarding  
 8 activities undertaken and expenses incurred in the implementation of this part.

9 (b) The department of fish, wildlife, and parks shall report to the legislative finance committee at least  
 10 biannually on expenditures made in the implementation of this part."  
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12 **Section 3.** Section 80-7-1007, MCA, is amended to read:

13 **"80-7-1007. Rulemaking authority.** (1) ~~Unless~~ Subject to the provisions of subsection (3) and unless  
 14 otherwise provided in Title 81, chapters 2 and 7, or this chapter, each of the departments may adopt rules for  
 15 the prevention, early detection, and control of invasive species under the departments' jurisdiction, including  
 16 rules for the:

17 (a) implementation of the invasive species strategic plan adopted pursuant to 80-7-1006;

18 (b) transportation of an invasive species or any agent likely to be a carrier of an invasive species;

19 (c) designation, regulation, and treatment of an invasive species management area under 80-7-1008,  
 20 including rules pertaining to:

21 (i) the use of quarantine regulations and measures;

22 (ii) the movement of vessels and equipment within, to, or from the area; and

23 (iii) the inspection and cleaning of vessels and equipment moving within, to, or from the area;

24 (d) manner in which vessels and equipment, including bilges, livewells, bait containers, and other  
 25 boating-related equipment, traveling in the state must be cleaned to ensure that they are free from the presence  
 26 of an invasive species; and

27 (e) prohibition on the use of felt-soled waders.

28 (2) ~~The~~ Subject to the provisions of subsection (3), the departments shall adopt rules for the

1 administration of the statewide invasive species management area established in 80-7-1015, including rules  
2 specifying the method or methods for preventing the introduction or further introduction of invasive species into  
3 the state, and shall adopt rules for:

4 (a) the use of quarantine measures;

5 (b) the movement of vessels and equipment into the state; and

6 (c) the manner in which check stations will be used to inspect, clean, and decontaminate vessels and  
7 equipment moving into the state.

8 (3) The department of fish, wildlife, and parks shall adopt rules for the prevention, early detection, and  
9 control of invasive plants."

10 - END -