



AN ACT REVISING LAWS RELATED TO THE PREVENTION AND CONTROL OF AQUATIC INVASIVE SPECIES IN MONTANA; REVISING THE MONTANA AQUATIC INVASIVE SPECIES ACT; AUTHORIZING COLLABORATION WITH THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION; ELIMINATING THE COORDINATING AUTHORITY; AUTHORIZING THE USE OF QUARANTINE MEASURES IN AN INVASIVE SPECIES MANAGEMENT AREA; APPROPRIATING FUNDS FROM THE STATE GENERAL FUND; AMENDING SECTIONS 80-7-1002, 80-7-1003, 80-7-1005, 80-7-1006, 80-7-1007, 80-7-1008, AND 80-7-1011, MCA; AND PROVIDING AN EFFECTIVE DATE.

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

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

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

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

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

(c) as infestations of threatening invasive species move ever closer to Montana's borders, protecting Montana against these species is of utmost importance to the state economy, environment, recreational opportunities, and human health for the benefit of all Montanans;

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

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

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

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

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

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

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

(2) "Invasive species" means, upon the mutual agreement of the directors of the departments, ~~of agriculture and fish, wildlife, and parks,~~ a nonnative, aquatic species that has caused, is causing, or is likely to cause harm to the economy, environment, recreational opportunities, or human health.

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

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

(5) "Vessel" has the meaning provided in 61-1-101."

Section 3. Section 80-7-1005, MCA, is amended to read:

"80-7-1005. Cooperative agreement for invasive species detection and control. (1) In order to

implement, administer, and accomplish the purposes of this part, the departments, collectively or individually, shall enter into a cooperative agreement with each other or may enter into an agreement with any person with the appropriate expertise and administrative capacity to perform the obligations of the agreement.

(2) Prior to entering an agreement with a person other than a department, the departments shall work in collaboration with each other to coordinate their respective responsibilities in order to further the purposes of this part.

(3) A cooperative agreement may include provisions for funding to implement the agreement.

~~————(4) The overall coordinating authority is the department of agriculture."~~

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

"80-7-1006. Departmental responsibilities. (1) The departments shall prepare a list of invasive species and identify those departments and other public agencies with jurisdiction over each species on the list. The jurisdiction of each department for the prevention and control of invasive species is according to the department's powers and duties as established by law.

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

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

(a) public awareness and education;

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

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

(d) emergency response.

(4) The departments may enforce quarantine regulations and measures imposed by law or rule in an invasive species management area, including the mandatory inspection of any interior portion of a vessel that may contain water for the presence of an invasive species.

~~(4)~~(5) The departments shall implement education and outreach programs that increase public knowledge and understanding of prevention, early detection, and control of invasive species."

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

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

(1) implementation of ~~an~~ the invasive species strategic plan adopted pursuant to 80-7-1006;

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

(3) designation, regulation, and treatment of an invasive species management area, including rules pertaining to:

(a) the use of quarantine regulations and measures;

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

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

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

Section 6. Section 80-7-1008, MCA, is amended to read:

"80-7-1008. Invasive species management area -- authorization. (1) When an invasive species is identified as infesting or threatening an area, the department with jurisdiction over that invasive species may designate and administer an invasive species management area for a specific area of land; or for a body or bodies of water; ~~or for the entire state~~ for a specific or indeterminate amount of time to prevent and control the infestation or spread of that invasive species.

(2) To the extent practicable, prior to the designation of an invasive species management area, the department making the designation shall coordinate with all of the departments in order to further the purposes of this part.

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

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

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

(i) the use of quarantine measures;

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

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

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

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

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

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

(2) At a check station, the departments may examine ~~the exterior of vessels~~ and trailers transporting vessels for the presence of an invasive species and compliance with regulations imposed under 80-7-1008(3)(b) and with this section. A department may examine any interior portion of a vessel that may contain water, including bilges, livewells, and bait containers, for compliance only if inspection of interior portions is included as part of quarantine measures established pursuant to 80-7-1008(3)(b)(i).

(3) ~~(a) Except as provided in subsection (3)(b), the~~ The owner, operator, or person in possession of a vessel shall stop at any check station unless a medical emergency makes stopping likely to result in death or serious bodily injury.

~~—— (b) If a check station is established under regulations pertaining to a statewide invasive species management area, a stop at that check station is required only for a vehicle transporting a vessel, excluding~~

vessels that have never been used:

(4) If during an inspection of ~~the exterior of a vessel~~ or a trailer transporting a vessel the presence of an invasive species is detected ~~upon the exterior of the vessel~~, that vessel or trailer may not leave the check station until it is cleaned and decontaminated in a manner established in accordance with 80-7-1008(3)(b)."

Section 8. Appropriations from state general fund. For the biennium beginning July 1, 2011, there is appropriated:

(1) to the department of agriculture \$558,000 from the state general fund for the prevention and control of any nonnative, aquatic invasive species pursuant to Title 80, chapter 7, part 10;

(2) to the department of fish, wildlife, and parks \$150,000 from the state general fund for the prevention and control of any nonnative, aquatic invasive species pursuant to Title 80, chapter 7, part 10; and

(3) to the department of natural resources and conservation \$190,000 from the state general fund for the prevention and control of aquatic noxious weeds pursuant to Title 80, chapter 7, part 10.

Section 9. Effective date. [This act] is effective July 1, 2011.

- END -

I hereby certify that the within bill,
HB 0621, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2011.

President of the Senate

Signed this _____ day
of _____, 2011.

HOUSE BILL NO. 621

INTRODUCED BY D. ANKNEY

BY REQUEST OF THE HOUSE JOINT APPROPRIATIONS SUBCOMMITTEE ON NATURAL RESOURCES
AND TRANSPORTATION

AN ACT REVISING LAWS RELATED TO THE PREVENTION AND CONTROL OF AQUATIC INVASIVE SPECIES IN MONTANA; REVISING THE MONTANA AQUATIC INVASIVE SPECIES ACT; AUTHORIZING COLLABORATION WITH THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION; ELIMINATING THE COORDINATING AUTHORITY; AUTHORIZING THE USE OF QUARANTINE MEASURES IN AN INVASIVE SPECIES MANAGEMENT AREA; APPROPRIATING FUNDS FROM THE STATE GENERAL FUND; AMENDING SECTIONS 80-7-1002, 80-7-1003, 80-7-1005, 80-7-1006, 80-7-1007, 80-7-1008, AND 80-7-1011, MCA; AND PROVIDING AN EFFECTIVE DATE.