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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2011

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A N A C T

RELATING TO FISH AND WILDLIFE -- MANAGEMENT OF AQUATIC INVASIVES  
SPECIES IN RHODE ISLAND WATERS

Introduced By: Representatives Keable, Winfield, Marcello, Lally, and Guthrie

Date Introduced: June 02, 2011

Referred To: House Environment and Natural Resources

It is enacted by the General Assembly as follows:

1           SECTION 1. Chapter 20-1 of the General Laws entitled "General Provisions" is hereby  
2 amended by adding thereto the following sections:

3           **20-1-27. Exotic invasive freshwater fish and invertebrate species--Prohibition on**  
4 **liberation into freshwaters.** – (a) No person shall release or liberate by design or accident any  
5 species of non-native (exotic) fish or invertebrate, as defined by the director, into the freshwater  
6 lakes, ponds, rivers, streams or wetlands of the state. The director shall promulgate rules and  
7 regulations governing the prohibition and its applicability. The prohibition and its enforcement  
8 shall not become effective until the rules and regulations governing the prohibition and its  
9 applicability take effect.

10           (b) Violations of this section shall be a misdemeanor, punishable by a fine of not more  
11 than five hundred dollars (\$500) or imprisonment for up to ninety (90) days, or both.

12           **20-1-28. Regulation of exotic baitfish—Prohibition on importation, sale and**  
13 **transport of exotic baitfish species.** – (a) No person shall import, transport, culture or sell exotic  
14 species of baitfish, as specified by the director, in Rhode Island. The director shall promulgate  
15 rules and regulations governing the prohibition and its applicability. The regulations shall include  
16 a list of approved native baitfish and a list of prohibited non-native or exotic species. The  
17 prohibition and its enforcement shall not become effective until the rules and regulations  
18 governing the prohibition and its applicability take effect.

1           **(b) Violations of this section shall be a misdemeanor, punishable by a fine of not more**  
2 **than five hundred dollars (\$500) or imprisonment for up to ninety (90) days, or both.**

3           SECTION 2. Section 42-17.1-2 of the General Laws in Chapter 42-17.1 entitled  
4 "Department of Environmental Management" is hereby amended to read as follows:

5           **42-17.1-2. Powers and duties.** -- The director of environmental management shall have  
6 the following powers and duties:

7           (1) To supervise and control the protection, development, planning, and utilization of the  
8 natural resources of the state, such resources, including, but not limited to, water, plants, trees,  
9 soil, clay, sand, gravel, rocks and other minerals, air, mammals, birds, reptiles, amphibians, fish,  
10 shellfish, and other forms of aquatic, insect, and animal life;

11           (2) To exercise all functions, powers, and duties heretofore vested in the department of  
12 agriculture and conservation, and in each of the divisions of the department, such as the  
13 promotion of agriculture and animal husbandry in their several branches, including the inspection  
14 and suppression of contagious diseases among animals, the regulation of the marketing of farm  
15 products, the inspection of orchards and nurseries, the protection of trees and shrubs from  
16 injurious insects and diseases, protection from forest fires, the inspection of apiaries and the  
17 suppression of contagious diseases among bees, prevention of the sale of adulterated or  
18 misbranded agricultural seeds, promotion and encouragement of the work of farm bureaus in  
19 cooperation with the University of Rhode Island, farmers' institutes and the various organizations  
20 established for the purpose of developing an interest in agriculture, together with such other  
21 agencies and activities as the governor and the general assembly may from time to time place  
22 under the control of the department, and as heretofore vested by such of the following chapters  
23 and sections of the general laws as are presently applicable to the department of environmental  
24 management and which were previously applicable to the department of natural resources and the  
25 department of agriculture and conservation or to any of its divisions: chapters 1 through 22,  
26 inclusive, as amended, in title 2 entitled "Agriculture and Forestry;" chapters 1 through 17,  
27 inclusive, as amended, in title 4 entitled "Animals and Animal Husbandry;" chapters 1 through  
28 19, inclusive, as amended, in title 20 entitled "Fish and Wildlife;" chapters 1 through 32,  
29 inclusive, as amended, in title 21 entitled "Food and Drugs;" chapter 7 of title 23 as amended,  
30 entitled "Mosquito Abatement;" and by any other general or public law relating to the department  
31 of agriculture and conservation or to any of its divisions or bureaus;

32           (3) To exercise all the functions, powers, and duties heretofore vested in the division of  
33 parks and recreation of the department of public works by chapters 1, 2, and 5 in title 32 entitled  
34 "Parks and Recreational Areas;" by chapter 22.5 of title 23, as amended, entitled "Drowning

1 Prevention and Lifesaving;" and by any other general or public law relating to the division of  
2 parks and recreation;

3 (4) To exercise all the functions, powers, and duties heretofore vested in the division of  
4 harbors and rivers of the department of public works, or in the department itself by such as were  
5 previously applicable to the division or the department, of chapters 1 through 22 and sections  
6 thereof, as amended, in title 46 entitled "Waters and Navigation"; and by any other general or  
7 public law relating to the division of harbors and rivers;

8 (5) To exercise all the functions, powers and duties heretofore vested in the department  
9 of health by chapters 25, 18.9, and 19.5 of title 23, as amended, entitled "Health and Safety;" and  
10 by chapters 12 and 16 of title 46, as amended, entitled "Waters and Navigation"; by chapters 3, 4,  
11 5, 6, 7, 9, 11, 13, 18, and 19 of title 4, as amended, entitled "Animals and Animal Husbandry;"  
12 and those functions, powers, and duties specifically vested in the director of environmental  
13 management by the provisions of section 21-2-22, as amended, entitled "Inspection of Animals  
14 and Milk;" together with other powers and duties of the director of the department of health as are  
15 incidental to or necessary for the performance of the functions transferred by this section;

16 (6) To cooperate with the Rhode Island economic development corporation in its  
17 planning and promotional functions, particularly in regard to those resources relating to  
18 agriculture, fisheries, and recreation;

19 (7) To cooperate with, advise, and guide conservation commissions of cities and towns  
20 created under chapter 35 of title 45 entitled "Conservation Commissions", as enacted by chapter  
21 203 of the Public Laws, 1960;

22 (8) To assign or reassign, with the approval of the governor, any functions, duties, or  
23 powers established by this chapter to any agency within the department, except as hereinafter  
24 limited;

25 (9) To cooperate with the water resources board and to provide to the board facilities,  
26 administrative support, staff services, and such other services as the board shall reasonably  
27 require for its operation and, in cooperation with the board and the statewide planning program to  
28 formulate and maintain a long range guide plan and implementing program for development of  
29 major water sources transmissions systems needed to furnish water to regional and local  
30 distribution systems;

31 (10) To cooperate with the solid waste management corporation and to provide to the  
32 corporation such facilities, administrative support, staff services and such other services within  
33 the department as the corporation shall reasonably require for its operation;

34 (11) To provide for the maintenance of waterways and boating facilities, consistent with

1 chapter 6.1 of title 46, by: (i) establishing minimum standards for upland beneficial use and  
2 disposal of dredged material; (ii) promulgating and enforcing rules for water quality, ground  
3 water protection, and fish and wildlife protection pursuant to section 42-17.1-24; (iii) planning for  
4 the upland beneficial use and/or disposal of dredged material in areas not under the jurisdiction of  
5 the council pursuant to section 46-23-6(2); and (iv) cooperating with the coastal resources  
6 management council in the development and implementation of comprehensive programs for  
7 dredging as provided for in sections 46-23-6(1)(ii)(H) and 46-23-18.3; and (v) monitoring dredge  
8 material management and disposal sites in accordance with the protocols established pursuant to  
9 section 46-6.1-5(3) and the comprehensive program provided for in section 46-23-6(1)(ii)(H); no  
10 powers or duties granted herein shall be construed to abrogate the powers or duties granted to the  
11 coastal resources management council under chapter 23 of title 46, as amended;

12 (12) To establish minimum standards, subject to the approval of the environmental  
13 standards board, relating to the location, design, construction and maintenance of all sewage  
14 disposal systems;

15 (13) To enforce, by such means as provided by law, the standards for the quality of air,  
16 and water, and the design, construction and operation of all sewage disposal systems; any order or  
17 notice issued by the director relating to the location, design, construction or maintenance of a  
18 sewage disposal system shall be eligible for recordation under chapter 13 of title 34. The director  
19 shall forward the order or notice to the city or town wherein the subject property is located and  
20 the order or notice shall be recorded in the general index by the appropriate municipal official in  
21 the land evidence records in the city or town wherein the subject property is located. Any  
22 subsequent transferee of that property shall be responsible for complying with the requirements of  
23 the order or notice. Upon satisfactory completion of the requirements of the order or notice, the  
24 director shall provide written notice of the same, which notice shall be similarly eligible for  
25 recordation. The original written notice shall be forwarded to the city or town wherein the subject  
26 property is located and the notice of satisfactory completion shall be recorded in the general index  
27 by the appropriate municipal official in the land evidence records in the city or town wherein the  
28 subject property is located. A copy of the written notice shall be forwarded to the owner of the  
29 subject property within five (5) days of a request for it, and, in any event, shall be forwarded to  
30 the owner of the subject property within thirty (30) days after correction;

31 (14) To establish minimum standards for the establishment and maintenance of salutary  
32 environmental conditions, including standards and methods for the assessment and the  
33 consideration of the cumulative effects on the environment of regulatory actions and decisions,  
34 which standards for consideration of cumulative effects shall provide for: (i) evaluation of

1 potential cumulative effects that could adversely effect public health and/or impair ecological  
2 functioning; (ii) analysis of such other matters relative to cumulative effects as the department  
3 may deem appropriate in fulfilling its duties, functions and powers; which standards and methods  
4 shall only be applicable to ISDS systems in the town of Jamestown in areas that are dependent for  
5 water supply on private and public wells, unless broader use is approved by the general assembly.  
6 The department shall report to the general assembly not later than March 15, 2008 with regard to  
7 the development and application of such standards and methods in Jamestown.

8 (15) To establish and enforce minimum standards for permissible types of septage,  
9 industrial waste disposal sites and waste oil disposal sites;

10 (16) To establish minimum standards subject to the approval of the environmental  
11 standards board for permissible types of refuse disposal facilities, the design, construction,  
12 operation, and maintenance of disposal facilities; and the location of various types of facilities;

13 (17) To exercise all functions, powers, and duties necessary for the administration of  
14 chapter 19.1 of title 23 entitled "Rhode Island Hazardous Waste Management Act";

15 (18) To designate in writing any person in any department of the state government or any  
16 official of a district, county, city, town, or other governmental unit, with that official's consent, to  
17 enforce any rule, regulation, or order promulgated and adopted by the director under any  
18 provision of law; provided, however, that enforcement of powers of the coastal resources  
19 management council shall be assigned only to employees of the department of environmental  
20 management, except by mutual agreement or as otherwise provided in chapter 23 of title 46;

21 (19) To issue and enforce such rules, regulations, and orders as may be necessary to  
22 carry out the duties assigned to the director and the department by any provision of law; and to  
23 conduct such investigations and hearings and to issue, suspend, and revoke such licenses as may  
24 be necessary to enforce those rules, regulations, and orders.

25 Notwithstanding the provisions of section 42-35-9 to the contrary, no informal  
26 disposition of a contested licensing matter shall occur where resolution substantially deviates  
27 from the original application unless all interested parties shall be notified of said proposed  
28 resolution and provided with opportunity to comment upon said resolution pursuant to applicable  
29 law and any rules and regulations established by the director.

30 (20) To enter, examine or survey at any reasonable time such places as the director  
31 deems necessary to carry out his or her responsibilities under any provision of law subject to the  
32 following provisions:

33 (i) For criminal investigations, the director shall, pursuant to chapter 5 of title 12, seek a  
34 search warrant from an official of a court authorized to issue warrants, unless a search without a

1 warrant is otherwise allowed or provided by law;

2 (ii) (A) All administrative inspections shall be conducted pursuant to administrative  
3 guidelines promulgated by the department in accordance with chapter 35 of title 42.

4 (B) A warrant shall not be required for administrative inspections if conducted under the  
5 following circumstances, in accordance with the applicable constitutional standards:

6 (I) For closely regulated industries;

7 (II) In situations involving open fields or conditions that are in plain view;

8 (III) In emergency situations;

9 (IV) In situations presenting an imminent threat to the environment or public health,  
10 safety or welfare;

11 (V) If the owner, operator, or agent in charge of the facility, property, site or location  
12 consents; or

13 (VI) In other situations in which a warrant is not constitutionally required.

14 (C) Whenever it shall be constitutionally or otherwise required by law, or whenever the  
15 director in his or her discretion deems it advisable, an administrative search warrant, or its  
16 functional equivalent, may be obtained by the director from a neutral magistrate for the purpose  
17 of conducting an administrative inspection. The warrant shall be issued in accordance with the  
18 applicable constitutional standards for the issuance of administrative search warrants. The  
19 administrative standard of probable cause, not the criminal standard of probable cause, shall  
20 apply to applications for administrative search warrants.

21 (I) The need for, or reliance upon, an administrative warrant shall not be construed as  
22 requiring the department to forfeit the element of surprise in its inspection efforts.

23 (II) An administrative warrant issued pursuant to this subsection must be executed and  
24 returned within ten (10) days of its issuance date unless, upon a showing of need for additional  
25 time, the court orders otherwise.

26 (III) An administrative warrant may authorize the review and copying of documents that  
27 are relevant to the purpose of the inspection. If documents must be seized for the purpose of  
28 copying, and the warrant authorizes such seizure, the person executing the warrant shall prepare  
29 an inventory of the documents taken. The time, place and manner regarding the making of the  
30 inventory shall be set forth in the terms of the warrant itself, as dictated by the court. A copy of  
31 the inventory shall be delivered to the person from whose possession or facility the documents  
32 were taken. The seized documents shall be copied as soon as feasible under circumstances  
33 preserving their authenticity, then returned to the person from whose possession or facility the  
34 documents were taken.

1 (IV) An administrative warrant may authorize the taking of samples of air, water or soil  
2 or of materials generated, stored or treated at the facility, property, site or location. Upon request,  
3 the department shall make split samples available to the person whose facility, property, site or  
4 location is being inspected.

5 (V) Service of an administrative warrant may be required only to the extent provided for  
6 in the terms of the warrant itself, by the issuing court.

7 (D) Penalties. - Any willful and unjustified refusal of right of entry and inspection to  
8 department personnel pursuant to an administrative warrant shall constitute a contempt of court  
9 and shall subject the refusing party to sanctions, which in the court's discretion may result in up to  
10 six (6) months imprisonment and/or a monetary fine of up to ten thousand dollars (\$10,000) per  
11 refusal.

12 (21) To give notice of an alleged violation of law to the person responsible therefor  
13 whenever the director determines that there are reasonable grounds to believe that there is a  
14 violation of any provision of law within his or her jurisdiction or of any rule or regulation adopted  
15 pursuant to authority granted to him or her, unless other notice and hearing procedure is  
16 specifically provided by that law. Nothing in this chapter shall limit the authority of the attorney  
17 general to prosecute offenders as required by law.

18 (i) The notice shall provide for a time within which the alleged violation shall be  
19 remedied, and shall inform the person to whom it is directed that a written request for a hearing  
20 on the alleged violation may be filed with the director within ten (10) days after service of the  
21 notice. The notice will be deemed properly served upon a person if a copy thereof is served him  
22 or her personally, or sent by registered or certified mail to his or her last known address, or if he  
23 or she is served with notice by any other method of service now or hereafter authorized in a civil  
24 action under the laws of this state. If no written request for a hearing is made to the director  
25 within ten (10) days of the service of notice, the notice shall automatically become a compliance  
26 order.

27 (ii) (A) Whenever the director determines that there exists a violation of any law, rule, or  
28 regulation within his or her jurisdiction which requires immediate action to protect the  
29 environment, he or she may, without prior notice of violation or hearing, issue an immediate  
30 compliance order stating the existence of the violation and the action he or she deems necessary.  
31 The compliance order shall become effective immediately upon service or within such time as is  
32 specified by the director in such order. No request for a hearing on an immediate compliance  
33 order may be made.

34 (B) Any immediate compliance order issued under this section without notice and prior

1 hearing shall be effective for no longer than forty-five (45) days; provided, however, that for  
2 good cause shown the order may be extended one additional period not exceeding forty-five (45)  
3 days.

4 (iii) If a person upon whom a notice of violation has been served under the provisions of  
5 this section or if a person aggrieved by any such notice of violation requests a hearing before the  
6 director within ten (10) days of the service of notice of violation, the director shall set a time and  
7 place for the hearing, and shall give the person requesting that hearing at least five (5) days  
8 written notice thereof. After the hearing, the director may make findings of fact and shall sustain,  
9 modify, or withdraw the notice of violation. If the director sustains or modifies the notice, that  
10 decision shall be deemed a compliance order and shall be served upon the person responsible in  
11 any manner provided for the service of the notice in this section.

12 (iv) The compliance order shall state a time within which the violation shall be remedied,  
13 and the original time specified in the notice of violation shall be extended to the time set in the  
14 order.

15 (v) Whenever a compliance order has become effective, whether automatically where no  
16 hearing has been requested, where an immediate compliance order has been issued, or upon  
17 decision following a hearing, the director may institute injunction proceedings in the superior  
18 court of the state for enforcement of the compliance order and for appropriate temporary relief,  
19 and in that proceeding the correctness of a compliance order shall be presumed and the person  
20 attacking the order shall bear the burden of proving error in the compliance order, except that the  
21 director shall bear the burden of proving in the proceeding the correctness of an immediate  
22 compliance order. The remedy provided for in this section shall be cumulative and not exclusive  
23 and shall be in addition to remedies relating to the removal or abatement of nuisances or any  
24 other remedies provided by law.

25 (vi) Any party aggrieved by a final judgment of the superior court may, within thirty (30)  
26 days from the date of entry of such judgment, petition the supreme court for a writ of certiorari to  
27 review any questions of law. The petition shall set forth the errors claimed. Upon the filing of the  
28 petition with the clerk of the supreme court, the supreme court may, if it sees fit, issue its writ of  
29 certiorari;

30 (22) To impose administrative penalties in accordance with the provisions of chapter  
31 17.6 of this title and to direct that such penalties be paid into the account established by  
32 subdivision (26); and

33 (23) The following definitions shall apply in the interpretation of the provisions of this  
34 chapter:



1 (i) Director: - The term "director" shall mean the director of environmental management  
2 of the state of Rhode Island or his or her duly authorized agent.

3 (ii) Person: - The term "person" shall include any individual, group of individuals, firm,  
4 corporation, association, partnership or private or public entity, including a district, county, city,  
5 town, or other governmental unit or agent thereof, and in the case of a corporation, any individual  
6 having active and general supervision of the properties of such corporation.

7 (iii) Service: - (A) Service upon a corporation under this section shall be deemed to  
8 include service upon both the corporation and upon the person having active and general  
9 supervision of the properties of such corporation.

10 (B) For purposes of calculating the time within which a claim for a hearing is made  
11 pursuant to subdivision (21)(i) of this section heretofore, service shall be deemed to be the date of  
12 receipt of such notice or three (3) days from the date of mailing of said notice, whichever shall  
13 first occur.

14 (24) (i) To conduct surveys of the present private and public camping and other  
15 recreational areas available and to determine the need for and location of such other camping and  
16 recreational areas as may be deemed necessary and in the public interest of the state of Rhode  
17 Island and to report back its findings on an annual basis to the general assembly on or before  
18 March 1 of every year;

19 (ii) Additionally, the director of the department of environmental management shall take  
20 such additional steps, including but not limited to, matters related to funding as may be necessary  
21 to establish such other additional recreational facilities and areas as are deemed to be in the public  
22 interest.

23 (25) (i) To apply for and accept grants and bequests of funds with the approval of the  
24 director of administration from other states, interstate agencies and independent authorities, and  
25 private firms, individuals and foundations, for the purpose of carrying out his or her lawful  
26 responsibilities. The funds shall be deposited with the general treasurer in a restricted receipt  
27 account created in the Natural Resources Program for funds made available for that program's  
28 purposes or in a restricted receipt account created in the Environmental Protection Program for  
29 funds made available for that program's purposes. All expenditures from the accounts shall be  
30 subject to appropriation by the general assembly, and shall be expended in accordance with the  
31 provisions of the grant or bequest. In the event that a donation or bequest is unspecified or in the  
32 event that the trust account balance shows a surplus after the project as provided for in the grant  
33 or bequest has been completed, the director may utilize said appropriated unspecified or  
34 appropriated surplus funds for enhanced management of the department's forest and outdoor

1 public recreation areas, or other projects or programs that promote the accessibility of recreational  
2 opportunities for Rhode Island residents and visitors.

3 (ii) The director shall submit to the house fiscal advisor and the senate fiscal advisor, by  
4 October 1 of each year, a detailed report on the amount of funds received and the uses made of  
5 such funds.

6 (26) To establish fee schedules by regulation with the approval of the governor for the  
7 processing of applications and the performing of related activities in connection with the  
8 department's responsibilities pursuant to subdivision (12) of this section, chapter 19.1 of title 23  
9 as it relates to inspections performed by the department to determine compliance with chapter  
10 19.1 and rules and regulations promulgated in accordance therewith, chapter 18.9 of title 23 as it  
11 relates to inspections performed by the department to determine compliance with chapter 18.9  
12 and the rules and regulations promulgated in accordance therewith, chapters 19.5 and 23 of title  
13 23; chapter 12 of title 46 insofar as it relates to water quality certifications and related reviews  
14 performed pursuant to provisions of the federal Clean Water Act, the regulation and  
15 administration of underground storage tanks and all other programs administered under chapter  
16 12 of title 46 and section 2-1-18 et seq., and chapter 13.1 of title 46 and chapter 13.2 of title 46  
17 insofar as they relate to any reviews and related activities performed under the provisions of the  
18 Groundwater Protection Act, chapter 23-24.9 as it relates to the regulation and administration of  
19 mercury-added products, and chapter 17.7 of this title insofar as it relates to administrative  
20 appeals of all enforcement, permitting and licensing matters to the administrative adjudication  
21 division for environmental matters. Two (2) fee ranges shall be required: for "Appeal of  
22 enforcement actions", a range of fifty dollars (\$50) to one hundred dollars (\$100), and for  
23 "Appeal of application decisions", a range of five hundred dollars (\$500) to ten thousand dollars  
24 (\$10,000). The monies from the administrative adjudication fees will be deposited as general  
25 revenues and the amounts appropriated shall be used for the costs associated with operating the  
26 administrative adjudication division.

27 There is hereby established an account within the general fund to be called the water and  
28 air protection program. The account shall consist of sums appropriated for water and air pollution  
29 control and waste monitoring programs and the state controller is hereby authorized and directed  
30 to draw his or her orders upon the general treasurer for the payment of such sums or such portions  
31 thereof as may be required from time to time upon receipt by him or her of properly authenticated  
32 vouchers. All amounts collected under the authority of this subdivision for the sewage disposal  
33 system program and fresh waters wetlands program will be deposited as general revenues and the  
34 amounts appropriated shall be used for the purposes of administering and operating the programs.

1 The director shall submit to the house fiscal advisor and the senate fiscal advisor by January 15 of  
2 each year a detailed report on the amount of funds obtained from fines and fees and the uses made  
3 of such funds.

4 (27) To establish and maintain a list or inventory of areas within the state worthy of  
5 special designation as "scenic" to include, but not be limited to, certain state roads or highways,  
6 scenic vistas and scenic areas, and to make the list available to the public.

7 (28) To establish and maintain an inventory of all interests in land held by public and  
8 private land trust and to exercise all powers vested herein to insure the preservation of all  
9 identified lands.

10 (i) The director may promulgate and enforce rules and regulations to provide for the  
11 orderly and consistent protection, management, continuity of ownership and purpose, and  
12 centralized records-keeping for lands, water, and open spaces owned in fee or controlled in full or  
13 in part through other interests, rights, or devices such as conservation easements or restrictions,  
14 by private and public land trusts in Rhode Island. The director may charge a reasonable fee for  
15 filing of each document submitted by a land trust.

16 (ii) The term "public land trust" means any public instrumentality created by a Rhode  
17 Island municipality for the purposes stated herein and financed by means of public funds  
18 collected and appropriated by the municipality. The term "private land trust" means any group of  
19 five (5) or more private citizens of Rhode Island who shall incorporate under the laws of Rhode  
20 Island as a nonbusiness corporation for the purposes stated herein, or a national organization such  
21 as the nature conservancy. The main purpose of either a public or a private land trust shall be the  
22 protection, acquisition, or control of land, water, wildlife, wildlife habitat, plants, and/or other  
23 natural features, areas, or open space for the purpose of managing or maintaining, or causing to  
24 be managed or maintained by others, the land, water, and other natural amenities in any  
25 undeveloped and relatively natural state in perpetuity. A private land trust must be granted  
26 exemption from federal income tax under Internal Revenue Code 501c(3) [26 U.S.C. section  
27 501(c)(3)] within two (2) years of its incorporation in Rhode Island or it may not continue to  
28 function as a land trust in Rhode Island. A private land trust may not be incorporated for the  
29 exclusive purpose of acquiring or accepting property or rights in property from a single  
30 individual, family, corporation, business, partnership, or other entity. Membership in any private  
31 land trust must be open to any individual subscribing to the purposes of the land trust and  
32 agreeing to abide by its rules and regulations including payment of reasonable dues.

33 (iii) (A) Private land trusts will, in their articles of association or their bylaws, as  
34 appropriate, provide for the transfer to an organization created for the same or similar purposes

1 the assets, lands and land rights and interests held by the land trust in the event of termination or  
2 dissolution of the land trust.

3 (B) All land trusts, public and private, will record in the public records of the appropriate  
4 towns and cities in Rhode Island all deeds, conservation easements or restrictions or other  
5 interests and rights acquired in land and will also file copies of all such documents and current  
6 copies of their articles of association, their bylaws, and annual reports with the secretary of state,  
7 and with the director of the Rhode Island department of environmental management. The director  
8 is hereby directed to establish and maintain permanently a system for keeping records of all  
9 private and public land trust land holdings in Rhode Island.

10 (29) The director will contact in writing, not less often than once every two (2) years,  
11 each public or private land trust to ascertain: that all lands held by the land trust are recorded with  
12 the director; the current status and condition of each land holding; that any funds or other assets  
13 of the land trust held as endowment for specific lands have been properly audited at least once  
14 within the two (2) year period; the name of the successor organization named in the public or  
15 private land trust's bylaws or articles of association; and any other information the director deems  
16 essential to the proper and continuous protection and management of land and interests or rights  
17 in land held by the land trust. In the event that the director determines that a public or private land  
18 trust holding land or interest in land appears to have become inactive, he or she shall initiate  
19 proceedings to effect the termination of the land trust and the transfer of its lands, assets, land  
20 rights, and land interests to the successor organization named in the defaulting trust's bylaws or  
21 articles of association or to another organization created for the same or similar purposes. Should  
22 such a transfer not be possible, then the land trust, assets, and interest and rights in land will be  
23 held in trust by the state of Rhode Island and managed by the director for the purposes stated at  
24 the time of original acquisition by the trust. Any trust assets or interests other than land or rights  
25 in land accruing to the state under such circumstances will be held and managed as a separate  
26 fund for the benefit of the designated trust lands.

27 (30) Consistent with federal standards, issue and enforce such rules, regulations and  
28 orders as may be necessary to establish requirements for maintaining evidence of financial  
29 responsibility for taking corrective action and compensating third parties for bodily injury and  
30 property damage caused by sudden and non-sudden accidental releases arising from operating  
31 underground storage tanks.

32 (31) To enforce, by such means as provided by law, the standards for the quality of air,  
33 and water, and the location, design, construction and operation of all underground storage  
34 facilities used for storing petroleum products or hazardous materials; any order or notice issued

1 by the director relating to the location, design construction, operation or maintenance of an  
2 underground storage facility used for storing petroleum products or hazardous materials shall be  
3 eligible for recordation under chapter 13 of title 34. The director shall forward the order or notice  
4 to the city or town wherein the subject facility is located, and the order or notice shall be recorded  
5 in the general index by the appropriate municipal officer in the land evidence records in the city  
6 or town wherein the subject facility is located. Any subsequent transferee of that facility shall be  
7 responsible for complying with the requirements of the order or notice. Upon satisfactory  
8 completion of the requirements of the order or notice, the director shall provide written notice of  
9 the same, which notice shall be eligible for recordation. The original written notice shall be  
10 forwarded to the city or town wherein the subject facility is located, and the notice of satisfactory  
11 completion shall be recorded in the general index by the appropriate municipal official in the land  
12 evidence records in the city or town wherein the subject facility is located. A copy of the written  
13 notice shall be forwarded to the owner of the subject facility within five (5) days of a request for  
14 it, and, in any event, shall be forwarded to the owner of the subject facility within thirty (30) days  
15 after correction.

16 (32) To manage and disburse any and all funds collected pursuant to section 46-12.9-4,  
17 in accordance with section 46-12.9-5, and other provisions of the Rhode Island Underground  
18 Storage Tank Financial Responsibility Act, as amended.

19 (33) To support, facilitate and assist the Rhode Island Natural History Survey, as  
20 appropriate and/or as necessary, in order to accomplish the important public purposes of the  
21 survey in gathering and maintaining data on Rhode Island natural history, making public  
22 presentations and reports on natural history topics, ranking species and natural communities,  
23 monitoring rare species and communities, consulting on open space acquisitions and management  
24 plans, reviewing proposed federal and state actions and regulations with regard to their potential  
25 impact on natural communities, and seeking outside funding for wildlife management, land  
26 management and research.

27 (34) To promote the effective stewardship of lakes and ponds including collaboration  
28 with associations of lakefront property owners on planning and management actions that will  
29 prevent and mitigate water quality degradation, the loss of native habitat due to infestation of  
30 non-native species and nuisance conditions that result from excessive growth of algal or non-  
31 native plant species. By January 31, 2012, the director shall prepare and submit a report to the  
32 governor and general assembly that based upon available information provides: (a) an assessment  
33 of lake conditions including a description of the presence and extent of aquatic invasive species in  
34 lakes and ponds; (b) recommendations for improving the control and management of aquatic

1 [invasives species in lakes and ponds; and \(c\) an assessment of the feasibility of instituting a boat](#)  
2 [sticker program for the purpose of generating funds to support implementation actions to control](#)  
3 [aquatic invasive species in the freshwaters of the state.](#)

4 SECTION 3. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO FISH AND WILDLIFE -- MANAGEMENT OF AQUATIC INVASIVES  
SPECIES IN RHODE ISLAND WATERS

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1           This act would require the department of environmental management to prepare and  
2 submit a report to the governor and the general assembly by January 31, 2012 which would  
3 provide an assessment of the condition of lakes and ponds, including the extent of invasive  
4 species, recommendations for improving the management of invasive species, and an assessment  
5 of the feasibility of establishing a boat sticker program to fund actions to control invasive species  
6 in lakes and ponds. It would also make it a misdemeanor with a fine of \$500 or imprisonment of  
7 up to ninety (90) days to release non-native exotic fish, baitfish or invertebrates into lakes, ponds,  
8 rivers and wetlands.

9           This act would take effect upon passage.

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