

Enrolled
House Bill 2220

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor Theodore R. Kulongoski for State Department of Fish and Wildlife)

CHAPTER

AN ACT

Relating to aquatic invasive species; creating new provisions; amending ORS 830.990; appropriating money; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. As used in sections 2 to 4 of this 2009 Act:

(1) "Aquatic invasive species" means any aquatic species of wildlife or any freshwater or marine invertebrate, as specified by the State Fish and Wildlife Commission by rule, or any aquatic noxious weeds as specified by the State Department of Agriculture by rule.

(2) "Recreational or commercial watercraft" means any boat, any equipment used to transport a boat and any auxiliary equipment for a boat, including but not limited to attached or detached outboard motors.

SECTION 2. (1) The State Department of Fish and Wildlife, the State Marine Board and the State Department of Agriculture are authorized to:

(a) Operate check stations for the purpose of inspecting recreational or commercial watercraft for the presence of aquatic invasive species.

(b) Decontaminate, or recommend decontamination of, any recreational or commercial watercraft that is inspected at a check station operated under authority of this section.

(2) All check stations operated under authority of this section must be plainly marked by signs that comply with all state and federal laws and must be staffed by at least one uniformed employee of the State Department of Fish and Wildlife, the State Marine Board or the State Department of Agriculture trained in inspection and decontamination of recreational or commercial watercraft.

SECTION 3. (1) The State Department of Fish and Wildlife, after consultation with the State Marine Board, the State Department of Agriculture and the Department of State Police, shall report biennially to the Legislative Assembly on efforts to prevent aquatic invasive species from entering this state and may include in the report suggested legislation necessary to more effectively prevent aquatic invasive species from entering this state.

(2) Reports to the Legislative Assembly required under this section must be made in accordance with ORS 192.245.

SECTION 4. (1) A person is subject to a civil penalty in an amount to be determined by the State Fish and Wildlife Director of not more than \$6,250 if the person knowingly transports aquatic invasive species on or in a recreational or commercial watercraft. A second or subsequent violation of this subsection within a five-year period shall result in a civil penalty in an amount not less than \$5,000 and not more than \$15,000.

(2) Subsection (1) of this section does not apply to:

(a) A person who transports aquatic invasive species in ballast water.

(b) A person who complies with all instructions for the proper decontamination of the recreational or commercial watercraft given by an employee authorized under section 2 (1) of this 2009 Act to inspect recreational or commercial watercraft.

(c) A person who transports aquatic invasive species to the State Department of Fish and Wildlife or the State Department of Agriculture, or to another destination designated by the State Fish and Wildlife Commission by rule, in a manner designated by the commission for purposes of identifying or reporting an aquatic invasive species.

(3) The civil penalties authorized in this section shall be imposed as provided in ORS 183.745. Any civil penalty recovered under this section shall be deposited in the State Wildlife Fund. The commission by rule shall adopt the formula the State Fish and Wildlife Director shall use in determining the amount of civil penalties under this section.

SECTION 5. The State Department of Fish and Wildlife shall submit the first report required under section 3 of this 2009 Act by March 1, 2011.

SECTION 6. Sections 7 to 10 of this 2009 Act are added to and made a part of ORS chapter 830.

SECTION 7. (1) A person may not operate a manually propelled boat that is 10 feet or more in length or a motorboat on the waters of this state without first obtaining an aquatic invasive species prevention permit from the State Marine Board under section 8 of this 2009 Act.

(2) A person who obtains an aquatic invasive species prevention permit for a manually propelled boat may use the permit on any manually propelled boat the person operates on the waters of this state.

SECTION 8. (1) The State Marine Board shall issue and renew an aquatic invasive species prevention permit to a person who pays the fee for the permit described in section 9 of this 2009 Act.

(2) The board may appoint agents to issue aquatic invasive species prevention permits.

(3) Agents shall issue permits in accordance with procedures prescribed by the board by rule and shall charge and collect the aquatic invasive species prevention permit fees prescribed by law.

(4) The board may authorize an agent other than a board employee to charge a service fee of \$2, in addition to the permit fee, for the issuance service performed by the agent.

(5) The board shall supply the agents with motorboat and manually propelled boat aquatic invasive species prevention permits.

SECTION 9. Notwithstanding ORS 830.790 (3), fees for issuance and renewal of an aquatic invasive species prevention permit are as follows:

(1) The biennial fee for a motorboat issued a certificate of number under ORS 830.795 is \$5.

(2) The annual fee for a manually propelled boat 10 feet or more in length is \$5.

(3) The annual fee for a motorboat operated by a nonresident is \$20.

(4) The annual fee for an operator of a boat livery is:

(a) \$30 for an operator who owns 6 to 10 manually propelled boats;

(b) \$55 for an operator who owns 11 to 20 manually propelled boats; or

(c) \$100 for an operator who owns 21 or more manually propelled boats.

SECTION 10. (1) The State Marine Board shall adopt rules for the implementation and administration of sections 7 to 9 of this 2009 Act, including but not limited to the exemption of certain boats from the requirements of section 7 of this 2009 Act.

(2) Nothing in sections 7 to 9 of this 2009 Act prevents the board from contracting any service provided under sections 7 to 9 of this 2009 Act to any private person or entity or other unit of government.

SECTION 11. The Aquatic Invasive Species Prevention Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Aquatic Invasive Species Prevention Fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the State Marine Board for the purpose of administering the aquatic invasive species prevention permit program under sections 7 to 9 of this 2009 Act and preventing and controlling aquatic invasive species.

SECTION 12. ORS 830.990 is amended to read:

830.990. (1) A person who violates ORS 830.050, 830.088, 830.090, 830.092, 830.094, 830.230, 830.415, 830.710, 830.720, 830.770, 830.780, 830.810, 830.850 or 830.855 or section 7 of this 2009 Act, or rules adopted to carry out the purposes of those statutes, commits a Class D violation.

(2) A person who violates ORS 830.220, 830.240, 830.245, 830.250, 830.375, 830.475 (4), 830.480, 830.785, 830.805 or 830.825, or rules adopted to carry out the purposes of those statutes, commits a Class C violation.

(3) A person who violates ORS 830.110, 830.175, 830.180, 830.185, 830.195, 830.210, 830.215, 830.225, 830.235, 830.260, 830.300, 830.315 (2) and (3), 830.335, 830.340, 830.345, 830.350, 830.355, 830.360, 830.362, 830.365, 830.370, 830.410, 830.420, 830.495, 830.775, 830.795 or 830.830, or rules adopted to carry out the purposes of those statutes, commits a Class B violation.

(4) A person who violates ORS 830.305 or 830.390, or rules adopted to carry out the purposes of those statutes, commits a Class A violation.

(5) A person who violates ORS 830.383 or 830.909 commits a Class B misdemeanor.

(6) A person who violates ORS 830.035 (2), 830.053, 830.315 (1), 830.325, 830.475 (1), 830.730 or 830.955 (1) commits a Class A misdemeanor.

(7) A person who violates ORS 830.475 (2) commits a Class C felony.

SECTION 13. (1) Sections 7 to 11 of this 2009 Act and the amendments to ORS 830.990 by section 12 of this 2009 Act become operative on January 1, 2010.

(2) Sections 7 to 11 of this 2009 Act and the amendments to ORS 830.990 by section 12 of this 2009 Act apply to operators of motorboats issued a certificate of number under ORS 830.795 whose number expires on or after December 31, 2011.

(3) Notwithstanding subsection (1) of this section, prior to January 1, 2010, the State Marine Board may adopt rules and take all other measures determined by the board to be necessary for implementation of sections 7 to 11 of this 2009 Act and the amendments to ORS 830.990 by section 12 of this 2009 Act.

SECTION 14. This 2009 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect on its passage.

Passed by House June 24, 2009

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Chief Clerk of House

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Speaker of House

Passed by Senate June 27, 2009

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President of Senate

Received by Governor:

.....M,....., 2009

Approved:

.....M,....., 2009

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Governor

Filed in Office of Secretary of State:

.....M,....., 2009

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Secretary of State