



# Oregon

Kate Brown, Governor

## State Marine Board

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Senate Committee on Environment and Natural Resources

Senator Michael Dembrow, Chair  
Senator Alan Olsen, Vice-Chair  
Senator Herman Baertschiger, Jr.  
Senator Floyd Prozanski  
Senator Arnie Roblan

Dear Chair Dembrow, Vice-Chair Olsen and Committee Members,

HB 2321 expands regulations to prevent the introduction and spread of aquatic invasive species (AIS) within the state. In support of HB 2321, please accept my testimony into record.

In 2009, the Oregon Legislature passed HB 2220 establishing the Aquatic Invasive Species Prevention Program. This program created a new user fee on boats with dedicated funds to pay for and implement mobile boat inspection teams, conduct outreach efforts and provide public education on AIS in Oregon. The Legislature also passed HB 2583, making it illegal to launch a boat in Oregon waters with aquatic species attached to the exterior or located within the interior of the boat. In 2011, the Legislature passed HB 3399 which established authority to require a person transporting a recreational or commercial watercraft to stop at a check station for inspection to determine the presence of AIS.

In 2010 the original AIS law was legislated and in 2012 the mandatory inspection stations were positioned throughout the state. Each year, the Marine Board and Oregon Department of Fish and Wildlife (ODFW) review the effectiveness of the AIS program. The objective is to determine if new or different actions would help reduce the probability of invasive species entering Oregon and, as necessary, the control or eradication of invasive species.

Since the original law was passed, quagga and zebra mussels have established themselves in 19 additional waterbodies in the Western States. They are present in Western waterbodies within California, Arizona, Nevada, Utah, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Texas and, as of late 2016, Montana.

In 2014, the National Sea Grant Law Center published a report, "*Preventing the Spread of Aquatic Invasive Species by Recreational Boats: Model Legislative Provisions and Guidance to Promote Reciprocity among State Watercraft Inspection and Decontamination Programs*". Recommendations from this report included draining all standing or captured water and transporting boats with plugs and valves open. These actions facilitate drainage in the boat which minimizes any standing water that can support mussel survival. The recommendations in the report were discussed with the Oregon Invasive Species Council, and language was drafted to support this recommendation.



The bill requires boaters to open all drain plugs, bailers, valves or other devices used to control the draining of water from ballast tanks, bilges, livewells and motorwells before the boat is transported away from the boat launch or retrieval area. Boats must be transported within the state in this manner. The penalty for failure to comply is a Class D violation. Presumptive fines for class D violations are normally \$110. As the intent of the bill is not to penalize boaters but rather generate compliance, a presumptive fine of \$30 for non-motorized boats and \$50 for motorized boats is proposed as an alternative to the normal fine.

This bill does provide an exemption for boats operated by law enforcement and emergency responders. In many cases these boats are launched quickly during an emergency. Failure to reinsert the drain plug could prolong their response time and result in significant safety issues.

Arizona, Kansas, New Mexico, North Dakota and South Dakota all have laws requiring the removal of the drain plug on boats. Colorado, Montana, Nevada, North Dakota, Texas, Utah and Washington all have laws requiring boats to be drained after use in a body of water. Colorado, Idaho and Wyoming all have laws requiring that boats drain all standing water as part of a mandatory boat inspection process.

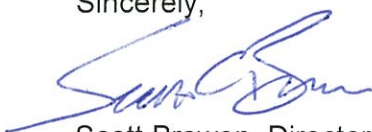
Current statute does not provide law enforcement the authority to require a vehicle transporting a boat that bypasses an open inspection station to return to the station for inspection. Law enforcement officers are often not trained to conduct the inspection nor does the law allow for them to do so. Currently, the only options available to law enforcement are to encourage the driver to voluntarily return to the station or allow the driver to continue driving onwards with no inspection. Boats lacking inspections increase the potential for a mussel-fouled boat to be allowed into Oregon and potentially contaminate waterways.

If stopped by law enforcement for bypassing a mandatory inspection station, this bill requires a person transporting a boat to return to an inspection station, provided the station is open and within five miles of the location of the stop. Failure to return to the inspection station is a Class C misdemeanor.

The intent of the law change is to require drivers who bypass an inspection station to return to the station to be checked. However, to do so establishes custody, since the driver is not free to proceed but is under the direction of the law enforcement officer. The Oregon Constitution requires a misdemeanor level offense in order to achieve this end. Consequently, a Class C misdemeanor is the lowest level of offense to charge someone who fails to return to the station. It should be noted that it is currently a Class D violation for bypassing a station, but there will be no additional action taken if a driver returns to the station for inspection. The Class C misdemeanor is specified only for drivers who refuse to return.

Thank you for your time. Please allow me to answer any questions you may have.

Sincerely,



Scott Brewen, Director