

House Bill 2321

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor Kate Brown for State Marine Board)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires boat operators to drain all standing or captured water before leaving water access site or riparian zone. Provides exceptions. Punishes by maximum fine of \$250.

Clarifies that requirement to obtain aquatic invasive species prevention permit applies to persons 14 years of age or older if person is operating nonmotorized boat.

Authorizes State Marine Board to combine aquatic invasive species prevention permit with other documents that board issues.

Requires person to cooperate with recommended decontamination process at check station. Punishes by maximum fine of \$250.

Authorizes peace officer to stop person transporting recreational or commercial watercraft and require person to drive to nearest check station if peace officer has reason to believe person failed to stop at check station. Punishes failure to comply with peace officer's directions by maximum of 30 days' imprisonment, \$1,250 fine, or both.

A BILL FOR AN ACT

1
2 Relating to aquatic invasive species; creating new provisions; and amending ORS 830.110, 830.565,
3 830.570, 830.575, 830.580, 830.585, 830.587, 830.589, 830.990, 830.998 and 830.999.

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

5 **SECTION 1. Section 2 of this 2017 Act is added to and made a part of ORS chapter 830.**

6 **SECTION 2. (1) Except as provided in subsection (3) of this section, after leaving the**
7 **waters of this state with a boat, a person shall drain all standing or captured water within**
8 **the boat, including but not limited to ballast tanks, bilge, livewells or motorwells, before**
9 **transporting the boat away from a water access site or riparian zone.**

10 **(2) A person shall remove or open all drain plugs, bailers, valves or other devices used**
11 **to control the draining of water from ballast tanks, bilges, livewells and motorwells before**
12 **transporting a boat within this state.**

13 **(3) Subsection (2) of this section does not apply to:**

14 **(a) Marine sanitary systems;**

15 **(b) Boats operated by peace officers; or**

16 **(c) Boats operated by emergency responders, as defined by the State Marine Board by**
17 **rule.**

18 **SECTION 3. ORS 830.565 is amended to read:**

19 830.565. (1) A person may not operate a [*manually propelled boat that is 10 feet or more in length*
20 *or a*] motorboat on the waters of this state without first obtaining an aquatic invasive species pre-
21 vention permit from the State Marine Board under ORS 830.570.

22 **(2) A person 14 years of age or older may not operate a nonmotorized boat on the waters**
23 **of this state without first obtaining an aquatic invasive species prevention permit from the**
24 **board under ORS 830.570.**

25 [(2)] **(3) A person who obtains an aquatic invasive species prevention permit for a [*manually***

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 *propelled* **nonmotorized** boat may use the permit on any [*manually propelled*] **nonmotorized** boat
 2 the person operates on the waters of this state.

3 **SECTION 4.** ORS 830.570 is amended to read:

4 830.570. (1) The State Marine Board shall issue and renew an aquatic invasive species pre-
 5 vention permit to a person who pays the fee for the permit described in ORS 830.575.

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

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

9 (4) The board may authorize an agent other than a board employee to charge a service fee of
 10 \$2, in addition to the permit fee, for the issuance service performed by the agent.

11 (5) The board shall supply the agents with motorboat and [*manually propelled*] **nonmotorized**
 12 boat aquatic invasive species prevention permits.

13 **(6) The board may combine an aquatic invasive species prevention permit with other**
 14 **permits, certificates, licenses or registrations issued by the board to the same person.**

15 **SECTION 5.** ORS 830.575 is amended to read:

16 830.575. Notwithstanding ORS 830.790 (3), fees for issuance and renewal of an aquatic invasive
 17 species prevention permit are as follows:

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

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

20 **(2) The fee for a nonmotorized boat is:**

21 **(a) \$5 annually; or**

22 **(b) \$10 biennially.**

23 (3) The annual fee for a motorboat [*operated by a nonresident*] **that is not registered in Oregon**
 24 **is \$20.**

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

26 (a) \$30 for an operator who owns 6 to 10 [*manually propelled*] **nonmotorized** boats;

27 (b) \$55 for an operator who owns 11 to 20 [*manually propelled*] **nonmotorized** boats; or

28 (c) \$100 for an operator who owns 21 or more [*manually propelled*] **nonmotorized** boats.

29 **(5) All fees collected under this section shall be deposited into the Aquatic Invasive Spe-**
 30 **cies Prevention Fund established in ORS 830.585.**

31 **SECTION 6.** ORS 830.580 is amended to read:

32 830.580. [(1)] The State Marine Board shall adopt rules for the implementation and adminis-
 33 tration of ORS 830.565 to 830.575, including but not limited to the exemption of certain boats from
 34 the requirements of ORS 830.565 **and the method for displaying an aquatic invasive species**
 35 **prevention permit.**

36 [(2) *Nothing in ORS 830.565 to 830.575 prevents the board from contracting any service provided*
 37 *under ORS 830.565 to 830.575 to any private person or entity or other unit of government.*]

38 **SECTION 7.** ORS 830.110 is amended to read:

39 830.110. In addition to the powers and duties otherwise provided in this chapter, the State Ma-
 40 rine Board shall have the power and duty to:

41 (1) Make all rules necessary to carry out the provisions of this chapter. The rules shall be made
 42 in accordance with ORS chapter 183.

43 (2) Devise a system of identifying numbers for boats, floating homes and boathouses. If an
 44 agency of the federal government has an overall system of identification numbering for boats within
 45 the United States, the system devised by the board shall conform with the federal system.

1 (3) Cooperate with state and federal agencies to promote uniformity of the laws relating to
2 boating and their enforcement.

3 (4) Make contracts necessary to carry out the provisions of ORS 830.060 to 830.140, **830.560 to**
4 **830.594**, 830.700 to 830.715, 830.725, 830.730, 830.770, 830.780, 830.785, 830.795 to 830.820 and 830.830
5 to 830.870.

6 (5) Advise and assist county sheriffs and other peace officers in the enforcement of laws relating
7 to boating.

8 (6) Study, plan and recommend the development of boating facilities throughout the state which
9 will promote the safety and pleasure of the public through boating.

10 (7) Publicize the advantage of safe boating.

11 (8) Accept gifts and grants of property and money to be used to further the purposes of this
12 chapter.

13 (9) Exempt from any provisions of this chapter any class of boats if it determines that the safety
14 of persons and property will not be materially promoted by the applicability of those provisions to
15 the class of boats. The board may not exempt from numbering any class of boats unless:

16 (a) The board determines that the numbering will not materially aid in their identification; and

17 (b) The secretary of the department of the federal government under which the United States
18 Coast Guard is operating has exempted from numbering the same boats or classes of boats.

19 (10) Appoint and require the bonding of agents to issue a temporary permit to operate a boat.
20 In addition to the prescribed fees, the agents may charge the following for their services in issuing
21 the temporary permit:

22 (a) \$2.50 per transaction for calendar years 2008, 2009 and 2010;

23 (b) \$3.75 per transaction for calendar years 2011, 2012 and 2013; and

24 (c) Beginning in 2014, and every three years thereafter, the board shall issue an order revising
25 the fee specified in paragraph (b) of this subsection on January 1, based on changes in the
26 Portland-Salem, OR-WA, Consumer Price Index for All Urban Consumers for All Items, as published
27 by the Bureau of Labor Statistics of the United States Department of Labor. The board shall round
28 the amount of the fee to the nearest half-dollar. The revised fee takes effect on January 1 and ap-
29 plies for the following three years.

30 (11) Publish and distribute to the interested public the boating laws of this state and resumes
31 or explanations of those laws.

32 (12) Publish and distribute forms for any application required under this chapter and require the
33 use of such forms.

34 (13) Make rules for the uniform navigational marking of the waters of this state. Such rules shall
35 not conflict with markings prescribed by the United States Coast Guard. No political subdivision
36 or person shall mark the waters of this state in any manner in conflict with the markings prescribed
37 by the board.

38 (14) Make rules regarding marine toilets and their use consistent with the prevention and con-
39 trol of pollution of the waters of this state and not in conflict with the rules of the Oregon Health
40 Authority or the Environmental Quality Commission.

41 (15) Institute proceedings to enjoin unlawful obstructions injuring free navigation on the waters
42 of this state.

43 (16) Make rules regulating water ski course markers, ski jumps and other special use devices
44 placed in the waters of this state. Such rules may regulate the installation and use of the devices
45 and may require a permit.

1 (17) Adopt rules necessary to carry out and enforce the provisions of ORS 830.950 and 830.955.
 2 The rules shall include but need not be limited to:

3 (a) The kinds of protective covering or physical barriers that are acceptable to be used between
 4 a submersible polystyrene device and the water.

5 (b) Guidelines for the use of submersible polystyrene devices for the repair or maintenance of
 6 existing docks or floats.

7 (18) Adopt rules providing for establishment of a Safe Boating Education Course to be made
 8 available to courts and law enforcement agencies within this state for use as a sentencing option
 9 for those individuals convicted of boating offenses. The board shall specify the content of the Safe
 10 Boating Education Course and shall prescribe procedures for making the course available to local
 11 courts and law enforcement agencies, including procedures for promptly notifying such courts
 12 whether individuals required to enroll in the course have taken and successfully passed the course.
 13 Such rules may provide for administration of the course through nonprofit organizations, such as the
 14 United States Coast Guard Auxiliary, United States Power Squadrons or similar groups.

15 (19) For purposes of ORS 830.175, 830.180, 830.185, 830.187 and 830.195, in cooperation with the
 16 State Aviation Board, regulate boats that are seaplanes as provided in ORS 830.605 and 835.200.

17 **SECTION 8.** ORS 830.585 is amended to read:

18 830.585. (1) The Aquatic Invasive Species Prevention Fund is established in the State Treasury,
 19 separate and distinct from the General Fund. Interest earned by the Aquatic Invasive Species Pre-
 20 vention Fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the
 21 State Marine Board. [*for the purpose of administering the aquatic invasive species prevention permit*
 22 *program under ORS 830.565 to 830.575 and preventing and controlling aquatic invasive species.*]

23 **(2)(a) The fund consists of:**

24 **(A) Moneys deposited into the fund under ORS 830.575;**

25 **(B) Moneys transferred to the fund from the federal government, other state agencies**
 26 **or local governments; and**

27 **(C) Any other moneys appropriated to the fund by the Legislative Assembly.**

28 **(b) The board may receive gifts, grants or contributions from any source, whether public**
 29 **or private. Moneys received under this paragraph shall be deposited into the fund.**

30 **(3) The board may use the moneys in the fund:**

31 **(a) To pay the administrative costs of the aquatic invasive species prevention permit**
 32 **program;**

33 **(b) To award grants and enter into grant agreements to prevent and control aquatic**
 34 **invasive species; and**

35 **(c) For any other purpose described in ORS 830.560 to 830.594.**

36 **SECTION 9.** ORS 830.587 is amended to read:

37 830.587. As used in ORS 830.589, 830.594, **830.998** and 830.999 **and section 12 of this 2017**
 38 **Act:**

39 (1) "Aquatic invasive species" means any aquatic species of wildlife or any freshwater or marine
 40 invertebrate[, *as specified by*] the State Fish and Wildlife Commission **identifies as a prohibited**
 41 **species** by rule, or any aquatic noxious weeds as specified by the State Department of Agriculture
 42 by rule.

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

SECTION 10. ORS 830.589 is amended to read:

830.589. (1) The State Department of Fish and Wildlife, the State Marine Board or the State Department of Agriculture may require a person transporting a recreational or commercial watercraft to stop at a check station to inspect the watercraft for the presence of aquatic invasive species. The purpose of the administrative search authorized under this section is to prevent and limit the spread of aquatic invasive species within Oregon.

(2) The State Department of Fish and Wildlife, the State Marine Board or the State Department of Agriculture may decontaminate, or recommend decontamination of, any recreational or commercial watercraft that the agency inspects at a check station operated under authority of this section.

If the State Department of Fish and Wildlife, the State Marine Board or the State Department of Agriculture recommends decontamination, the person shall cooperate with the agency to complete the decontamination.

(3) 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.

(4) An agency that operates a check station under this section shall require all persons transporting recreational or commercial watercraft to stop at the check station, and the agency shall inspect every recreational or commercial watercraft that goes through the check station.

(5) Notwithstanding ORS 496.992, a person transporting a recreational or commercial watercraft who stops at a check station for inspection and who cooperates in the decontamination process is not subject to criminal sanctions for possessing or transporting aquatic invasive species.

(6) The State Department of Fish and Wildlife, the State Marine Board and the State Department of Agriculture may adopt rules to carry out the provisions of this section.

SECTION 11. Section 12 of this 2017 Act is added to and made a part of ORS chapter 830.

SECTION 12. (1) A peace officer may stop a person transporting a recreational or commercial watercraft and require the person to drive to the nearest aquatic invasive species check station if:

(a) The peace officer has reason to believe that the person failed to stop at an aquatic invasive species check station in violation of ORS 830.589; and

(b) There is an aquatic invasive species check station that is open within five miles of the location of the stop.

(2) When it is necessary for the person to reverse direction in order to proceed to the aquatic invasive species check station, the peace officer shall assist the driver of the vehicle so that the turning movement can be made in safety.

(3) Failure to comply with a peace officer's directions under this section is subject to penalty under ORS 830.990.

SECTION 13. ORS 830.990 is amended to read:

830.990. (1)(a) Violation of ORS 830.565 **or section 2 of this 2017 Act** by a person operating a [manually propelled] **nonmotorized** boat is a Class D violation. Notwithstanding ORS 153.019, the presumptive fine for a violation of ORS 830.565 by a person operating a [manually propelled] **nonmotorized** boat is \$30.

(b) Violation of ORS 830.565 **or section 2 of this 2017 Act** by a person operating a motorboat is a Class D violation. Notwithstanding ORS 153.019, the presumptive fine for a violation of ORS 830.565 by a person operating a motorboat is \$50.

1 (2) A person who violates ORS 830.050, 830.088, 830.090, 830.092, 830.094, 830.230, 830.415,
 2 830.710, 830.720, 830.770, 830.780, 830.810, 830.850 or 830.855, or rules adopted to carry out the pur-
 3 poses of those statutes, commits a Class D violation.

4 (3) A person who violates ORS 830.220, 830.240, 830.245, 830.250, 830.375, 830.475 (4), 830.480,
 5 830.785, 830.805 or 830.825, or rules adopted to carry out the purposes of those statutes, commits a
 6 Class C violation.

7 (4) A person who violates ORS 830.110, 830.175, 830.180, 830.185, 830.187, 830.195, 830.210,
 8 830.215, 830.225, 830.235, 830.260, 830.300, 830.315 (2) and (3), 830.335, 830.340, 830.345, 830.350,
 9 830.355, 830.360, 830.362, 830.365, 830.370, 830.410, 830.420, 830.495, 830.560, 830.775, 830.795 or
 10 830.830, or rules adopted to carry out the purposes of those statutes, commits a Class B violation.

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

13 **(6) A person who violates section 12 of this 2017 Act commits a Class C misdemeanor.**

14 [(6)] (7) A person who violates ORS 830.383 commits a Class B misdemeanor.

15 [(7)] (8) A person who violates ORS 830.035 (2), 830.053, 830.315 (1), 830.325, 830.475 (1), 830.730
 16 or 830.955 (1) commits a Class A misdemeanor.

17 [(8)] (9) A person who violates ORS 830.475 (2) commits a Class C felony.

18 [(9)] (10) A person who violates ORS 830.944 commits a Class A violation.

19 **SECTION 14.** ORS 830.998 is amended to read:

20 830.998. (1) A person who is transporting a recreational or commercial watercraft and fails to
 21 stop and submit to an inspection **or complete recommended decontamination** at an aquatic
 22 invasive species check station operated by the State Department of Fish and Wildlife, the State
 23 Marine Board or the State Department of Agriculture as provided under ORS 830.589 commits a
 24 Class D violation.

25 (2) Notwithstanding ORS 153.042, [*an enforcement*] a **peace** officer may issue a citation under
 26 subsection (1) of this section when the conduct alleged to constitute a violation has not taken place
 27 in the presence of the [*enforcement*] **peace** officer, if the [*enforcement*] **peace** officer has reasonable
 28 grounds to believe that the conduct constitutes a violation on the basis of information received from
 29 an employee of an agency authorized to operate an aquatic invasive species check station who ob-
 30 served the violation.

31 **SECTION 15.** ORS 830.999 is amended to read:

32 830.999. (1) A person is subject to a civil penalty in an amount to be determined by the State
 33 Fish and Wildlife Director of not more than \$6,250 if the person knowingly transports aquatic
 34 invasive species on or in a recreational or commercial watercraft. A second or subsequent violation
 35 of this subsection within a five-year period shall result in a civil penalty in an amount not less than
 36 \$5,000 and not more than \$15,000.

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

38 (a) A person who transports aquatic invasive species in ballast water, **as defined in ORS**
 39 **783.625.**

40 (b) A person who complies with all instructions for the proper decontamination of the recre-
 41 ational or commercial watercraft given by an employee authorized under ORS 830.589 (1) to inspect
 42 recreational or commercial watercraft.

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

1 identifying or reporting an aquatic invasive species.

2 (3) The civil penalties authorized in this section shall be imposed as provided in ORS 183.745.

3 Any civil penalty recovered under this section shall be deposited in the State Wildlife Fund. The

4 commission by rule shall adopt the formula the State Fish and Wildlife Director shall use in deter-

5 mining the amount of civil penalties under this section.

6
