

House Bill 2076

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 remove or open devices used to drain water from boat before transporting boat within this state. Provides exceptions. Punishes failure to comply by maximum fine of \$250.

Requires person to cooperate with ordered decontamination process at aquatic invasive species check station. Punishes failure to cooperate with ordered decontamination process by maximum fine of \$250.

Authorizes peace officer to stop person transporting recreational or commercial watercraft and require person to drive to open aquatic invasive species check station within five miles of stop if peace officer has probable cause that person failed to stop at check station. Punishes failure to comply with peace officer's request 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 2019 Act is added to and made a part of ORS chapter 830.**

6 **SECTION 2. (1) Except as provided in subsection (2) of this section, after leaving the**
7 **waters of this state with a boat, a person shall remove or open all drain plugs, bailers, valves**
8 **or other devices used to control the draining of water from ballast tanks, bilges, livewells**
9 **and motorwells before transporting a boat within this state.**

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

11 **(a) Marine sanitation devices;**

12 **(b) A person who holds a permit issued pursuant to ORS 498.222 to transport live fish;**

13 **(c) A person participating in a fishing tournament authorized by the State Department**
14 **of Fish and Wildlife, except that after weighing the fish the person shall return to the boat**
15 **launch site and drain the boat as required under subsection (1) of this section;**

16 **(d) Boats operated by a peace officer; or**

17 **(e) Boats operated by an emergency responder, as defined by the State Marine Board by**
18 **rule.**

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

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

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

26 **(3) As used in this section:**

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 (a) **“Nonmotorized boat” includes a sailboat that is at least 10 feet but less than 12 feet**
 2 **in length.**

3 (b) **“Motorboat” includes a sailboat that is at least 12 feet in length.**

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

5 830.570. (1) The State Marine Board shall issue [*and renew*] an aquatic invasive species pre-
 6 vention permit to, **or renew the permit of**, a person who pays the fee for the permit described in
 7 ORS 830.575.

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

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

11 (4) The board may authorize an agent other than a board employee to charge a service fee of
 12 \$2, in addition to the permit fee, for the issuance service performed by the agent.

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

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*] **nonmotorized boat at least** 10 feet [*or more*] in
 20 length is \$5.

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

23 (4) The annual fee for an operator of a boat livery **or an outfitter and guide, as that term**
 24 **is defined in ORS 704.010**, is:

25 (a) \$30 for [*an operator*] **a person** who owns 6 to 10 [*manually propelled*] **nonmotorized boats**
 26 **at least 10 feet in length;**

27 (b) \$55 for [*an operator*] **a person** who owns 11 to 20 [*manually propelled*] **nonmotorized boats**
 28 **at least 10 feet in length;** or

29 (c) \$100 for [*an operator*] **a person** who owns 21 or more [*manually propelled*] **nonmotorized**
 30 **boats at least 10 feet in length.**

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

33 (6) **As used in this section:**

34 (a) **“Nonmotorized boat” includes a sailboat that is at least 10 feet but less than 12 feet**
 35 **in length.**

36 (b) **“Motorboat” includes a sailboat that is at least 12 feet in length.**

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

38 830.580. [(1)] The State Marine Board shall adopt rules for the implementation and adminis-
 39 tration of ORS 830.565 to 830.575, including but not limited to the exemption of certain boats from
 40 the requirements of ORS 830.565 **and the method for displaying an aquatic invasive species**
 41 **prevention permit.**

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

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

45 830.110. In addition to the powers and duties otherwise provided in this chapter, the State Ma-

1 rine Board shall have the power and duty to:

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

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

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

9 (4) Make contracts necessary to carry out the provisions of ORS 830.060 to 830.140, **830.565 to**
10 **830.575**, 830.700 to 830.715, 830.725, 830.730, 830.770, 830.780, 830.785, 830.795 to 830.820 and 830.830
11 to 830.870.

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

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

16 (7) Publicize the advantage of safe boating.

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

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

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

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

25 (10) Appoint and require the bonding of agents to issue a temporary permit to operate a boat.
26 In addition to the prescribed fees, the agents may charge [*the following*] **a fee prescribed by the**
27 **board** for their services in issuing the temporary permit[.].

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

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

30 [(c) *Beginning in 2014, and*] Every three years [*thereafter,*] the board shall issue an order revising
31 the fee [*specified in paragraph (b) of*] **imposed under** this subsection on January 1, based on changes
32 in the [*Portland-Salem, OR-WA,*] **U.S. City Average** Consumer Price Index for All Urban Consumers
33 for All Items, as published by the Bureau of Labor Statistics of the United States Department of
34 Labor. The board shall round the amount of the fee to the nearest half-dollar. The revised fee takes
35 effect on January 1 and applies for the following three years.

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

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

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

44 (14) Make rules regarding marine toilets and their use consistent with the prevention and con-
45 trol of pollution of the waters of this state and not in conflict with the rules of the Oregon Health

1 Authority or the Environmental Quality Commission.

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

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

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

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

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

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

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

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

24 830.585. (1) The Aquatic Invasive Species Prevention Fund is established in the State Treasury,
25 separate and distinct from the General Fund. Interest earned by the Aquatic Invasive Species Pre-
26 vention Fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the
27 State Marine Board [*for the purpose of administering the aquatic invasive species prevention permit*
28 *program under ORS 830.565 to 830.575 and preventing and controlling aquatic invasive species*].

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

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

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

33 **(C) Any other moneys appropriated to the fund by the Legislative Assembly; and**

34 **(D) Moneys deposited into the fund under paragraph (b) of this subsection.**

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

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

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

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

42 **(c) For any other purpose of the board as described in ORS 830.565 to 830.575, 830.589 and**
43 **830.594.**

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

45 830.587. As used in ORS 830.589, 830.594, **830.998** and 830.999 **and section 12 of this 2019**

1 **Act:**

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

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

9 **SECTION 10.** ORS 830.589 is amended to read:

10 830.589. (1) The State Department of Fish and Wildlife, the State Marine Board or the State
 11 Department of Agriculture may require a person transporting a recreational or commercial
 12 watercraft to stop at a check station to inspect the watercraft for the presence of aquatic invasive
 13 species. The purpose of the administrative search authorized under this section is to prevent and
 14 limit the spread of aquatic invasive species within Oregon.

15 (2)(a) The State Department of Fish and Wildlife, the State Marine Board or the State Depart-
 16 ment of Agriculture may decontaminate, or [*recommend*] **order the** decontamination of, any recre-
 17 ational or commercial watercraft that the agency inspects at a check station operated under
 18 authority of this section. **If the State Department of Fish and Wildlife, the State Marine Board**
 19 **or the State Department of Agriculture orders decontamination, the person transporting the**
 20 **watercraft shall cooperate with the agency to complete the decontamination.**

21 **(b) Failure to cooperate with the ordered decontamination process is subject to penalties**
 22 **under ORS 830.998.**

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

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

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

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

35 **SECTION 11.** Section 12 of this 2019 Act is added to and made a part of ORS chapter 830.

36 **SECTION 12.** (1) **When a peace officer stops a person transporting a recreational or**
 37 **commercial watercraft for failing to stop at an aquatic invasive species check station as re-**
 38 **quired under ORS 830.589, the peace officer may request that the person immediately drive**
 39 **to the nearest aquatic invasive species check station and have the watercraft inspected and,**
 40 **if needed, decontaminated, provided that:**

41 **(a) The peace officer has probable cause that the person violated ORS 830.589 by failing**
 42 **to stop at an aquatic invasive species check station; and**

43 **(b) An aquatic invasive species check station is open within five miles of the location of**
 44 **the stop.**

45 **(2) When it is necessary for the person to reverse direction in order to proceed to the**

1 **nearest aquatic invasive species check station, the peace officer may assist the driver of the**
 2 **vehicle so that the turning movement can be made safely.**

3 **(3) Failure to comply with a peace officer's request to proceed to the nearest aquatic**
 4 **invasive species check station under subsection (1) of this section is subject to criminal**
 5 **penalties under ORS 830.990.**

6 **SECTION 13.** ORS 830.990 is amended to read:

7 830.990. (1)(a) Violation of ORS 830.565 **or section 2 of this 2019 Act** by a person operating a
 8 [*manually propelled*] **nonmotorized** boat is a Class D violation. Notwithstanding ORS 153.019, the
 9 presumptive fine for a violation of ORS 830.565 by a person operating a [*manually propelled*] **non-**
 10 **motorized** boat is \$30.

11 (b) Violation of ORS 830.565 **or section 2 of this 2019 Act** by a person operating a motorboat
 12 is a Class D violation. Notwithstanding ORS 153.019, the presumptive fine for a violation of ORS
 13 830.565 by a person operating a motorboat is \$50.

14 (2) A person who violates ORS 830.050, 830.088, 830.090, 830.092, 830.094, 830.230, 830.415,
 15 830.710, 830.720, 830.770, 830.780, 830.810, 830.850 or 830.855, or rules adopted to carry out the pur-
 16 poses of those statutes, commits a Class D violation.

17 (3) A person who violates ORS 830.220, 830.240, 830.245, 830.250, 830.375, 830.475 (4), 830.480,
 18 830.785, 830.805 or 830.825, or rules adopted to carry out the purposes of those statutes, commits a
 19 Class C violation.

20 (4) A person who violates ORS 830.110, 830.175, 830.180, 830.185, 830.187, 830.195, 830.210,
 21 830.215, 830.225, 830.235, 830.260, 830.300, 830.315 (2) and (3), 830.335, 830.340, 830.345, 830.350,
 22 830.355, 830.360, 830.362, 830.365, 830.370, 830.410, 830.420, 830.495, 830.560, 830.775, 830.795 or
 23 830.830, or rules adopted to carry out the purposes of those statutes, commits a Class B violation.

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

26 **(6) A person who violates section 12 of this 2019 Act commits a Class C misdemeanor.**

27 [(6)] (7) A person who violates ORS 830.383 commits a Class B misdemeanor.

28 [(7)] (8) A person who violates ORS 830.035 (2), 830.053, 830.315 (1), 830.325, 830.475 (1), 830.730
 29 or 830.955 (1) commits a Class A misdemeanor.

30 [(8)] (9) A person who violates ORS 830.475 (2) commits a Class C felony.

31 [(9)] (10) A person who violates ORS 830.944 commits a Class A violation.

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

33 830.998. (1) A person who is transporting a recreational or commercial watercraft and fails to
 34 stop and submit to an inspection **or complete the ordered decontamination** at an aquatic invasive
 35 species check station operated by the State Department of Fish and Wildlife, the State Marine Board
 36 or the State Department of Agriculture as provided under ORS 830.589 commits a Class D violation.

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

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

44 830.999. (1) A person is subject to a civil penalty in an amount to be determined by the State
 45 Fish and Wildlife Director of not more than \$6,250 if the person knowingly transports aquatic

1 invasive species on or in a recreational or commercial watercraft. A second or subsequent violation
2 of this subsection within a five-year period shall result in a civil penalty in an amount not less than
3 \$5,000 and not more than \$15,000.

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

5 (a) A person who transports aquatic invasive species in ballast water, **as defined in ORS**
6 **783.625.**

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

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

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

18 **SECTION 16. The amendments to ORS 830.110 by section 7 of this 2019 Act apply to fees**
19 **imposed on or after January 1, 2020.**

20