



AN ACT REVISING LAWS RELATED TO INVASIVE SPECIES; ESTABLISHING THE INVASIVE SPECIES COUNCIL; ESTABLISHING THE UPPER COLUMBIA CONSERVATION COMMISSION; PROVIDING POWERS AND DUTIES; REQUIRING REPORTING; REVISING LOCATION AND TIMING OF INSPECTIONS IN THE STATEWIDE INVASIVE SPECIES MANAGEMENT AREA; AUTHORIZING COUNTY INVASIVE SPECIES ORDINANCES; ESTABLISHING THE MISSOURI RIVER CONTAINMENT AND QUARANTINE PROGRAM; ESTABLISHING THE UPPER COLUMBIA PILOT PROGRAM; REVISING PENALTIES; PROVIDING APPROPRIATIONS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 80-7-1003, 80-7-1007, 80-7-1008, 80-7-1011, 80-7-1014, AND 80-7-1015, MCA; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1. Invasive species council.** (1) There is an invasive species council within the department of natural resources and conservation. The council is attached to the department for administrative purposes only, as prescribed in 2-15-121.

(2) The council consists of the following 22 members:

(a) the directors of the following departments or their designees:

- (i) fish, wildlife, and parks;
- (ii) natural resources and conservation;
- (iii) transportation;
- (iv) agriculture; and
- (v) commerce;

(b) a representative of each of the following appointed by and serving at the pleasure of the governor:

- (i) county weed districts;
- (ii) conservation districts;
- (iii) the Montana state university extension service;

- (iv) agriculture;
- (v) conservation organizations;
- (vi) wildlife organizations;
- (vii) fishing organizations;
- (viii) hydropower utility industry;
- (ix) private landowners; and
- (x) each of the tribal governments in Montana.

(3) The council shall seek active input and participation in its deliberations from the U.S. army corps of engineers, the U.S. bureau of reclamation, the U.S. bureau of land management, the U.S. department of agriculture animal and plant health inspection service, the U.S. fish and wildlife service, the U.S. forest service, and the national park service.

(4) The council members shall serve without pay. Unless otherwise provided by law, each council member is entitled to be reimbursed for travel expenses pursuant to 2-18-501 through 2-18-503.

(5) Council members shall serve staggered 4-year terms.

(6) A majority of the membership of the council constitutes a quorum to do business. A favorable vote of at least a majority of all of the members is required to adopt any resolution, to approve a motion, or to make any other decision.

(7) The council shall meet no less than twice annually.

(8) The governor shall appoint the presiding officer, who shall serve in that capacity for a 2-year term.

(9) The presiding officer and the director of the department of natural resources and conservation shall serve as the council's liaisons to the governor's office.

**Section 2. Upper Columbia conservation commission.** (1) There is an upper Columbia conservation commission within the department of natural resources and conservation. The commission is attached to the department for administrative purposes only, as prescribed in 2-15-121.

(2) There are nine voting commission members who are appointed by and serve at the pleasure of the governor. They include one member at large and a representative of each of the following:

- (a) the hydropower utility industry;
- (b) electric cooperatives located within the Columbia river basin in Montana;
- (c) conservation districts;
- (d) recreation organizations;

- (e) private industry;
- (f) private landowners;
- (g) the Confederated Salish and Kootenai Tribes; and
- (h) the invasive species council established in [section 1].

(3) The speaker of the house and the president of the senate shall each appoint one nonvoting member to the commission. The appointments must be coordinated so that the appointments are bipartisan.

(4) The commission shall seek active input and participation in its deliberations from the U.S. forest service, the national park service, the U.S. fish and wildlife service, the U.S. department of agriculture natural resources conservation service, the U.S. army corps of engineers, the U.S. bureau of reclamation, and the northwest power and conservation council.

(5) The commission members shall serve without pay. Unless otherwise provided by law, commission members are entitled to reimbursement for travel expenses pursuant to 2-18-501 through 2-18-503.

(6) Commission members shall serve staggered 4-year terms.

(7) A majority of the voting membership of the commission constitutes a quorum to do business. A favorable vote of at least a majority of the voting members is required to adopt any resolution, to approve a motion, or to make any other decision, unless otherwise provided by law.

(8) The governor shall appoint the presiding officer.

**Section 3. Invasive species ordinances.** (1) Subject to subsection (2), counties located within the Columbia river basin may adopt ordinances and resolutions regarding the prevention or control of invasive species, as defined in 80-7-1003, within the county.

(2) If an Indian reservation is located within the boundaries of the county, the board of county commissioners shall consult with the governing body of the tribe or tribes of the Indian reservation prior to adopting an ordinance pursuant to this section.

**Section 4. Invasive species council -- purpose and duties -- reporting -- definition.** (1) The purpose of the invasive species council is to advise the governor on a science-based, comprehensive program to identify, prevent, eliminate, reduce, and mitigate invasive species in Montana and to coordinate with public and private partners to develop and implement statewide invasive species strategic plans.

(2) The council shall:

(a) provide policy level recommendations, direction, and planning assistance for combating infestations

of invasive species throughout the state and preventing the introduction of other invasive species;

(b) foster cooperation, communication, and coordinated approaches that support federal, state, provincial, regional, tribal, and local initiatives for the prevention, early detection, and control of invasive species;

(c) identify, coordinate, and maintain an independent science advisory panel that informs Montana's efforts based on the current status, trends, and emerging technology as they relate to invasive species management in Montana;

(d) in coordination with stakeholders, identify and implement priorities for coordination, prevention, early detection, rapid response, and control of invasive species in Montana;

(e) champion priority invasive species issues identified by stakeholders to best protect the state;

(f) advise and coordinate with agency personnel, local efforts, and the scientific community to implement program priorities;

(g) implement an invasive species education and outreach strategy;

(h) work with regional groups to coordinate regional defense and response strategies; and

(i) work toward establishing and maintaining permanent funding for invasive species priorities.

(3) The council may receive and, subject to appropriation by the legislature, expend donations, gifts, grants, and other money necessary to fulfill its duties.

(4) The council shall report on its activities to the governor, the director of the department of natural resources and conservation, and the environmental quality council annually.

(5) For the purposes of this section, "invasive species" means plants, animals, and pathogens that are nonnative to Montana's ecosystem and cause harm to natural and cultural resources, the economy, and human health.

**Section 5. Missouri river containment and quarantine program.** (1) The department of fish, wildlife, and parks shall operate a containment and quarantine program for water bodies fouled by invasive mussels in the Missouri river system, including but not limited to:

(a) restrictions on moored vessels within the system;

(b) restrictions regarding the use of launch sites and the exit of vessels from fouled water bodies in the system. Launching in and exiting from fouled water bodies is restricted to vessels certified by the department of fish, wildlife, and parks for local use on those water bodies, unless check stations and decontamination units are present.

(c) restrictions on fishing derbies in fouled water bodies.

(2) By December 31, 2018, the department of fish, wildlife, and parks shall develop a containment and quarantine plan for the Missouri river system, allowing for public input and comment, and submit the plan to the invasive species council established in [section 1]. The plan may permit the reopening of fouled water bodies in the system to all vessels if launch site inspectors are properly trained, if the necessary infrastructure and equipment are in place and have been fully tested in advance of deployment, and if invasive species are fully contained, after decontamination, to the source water body.

**Section 6. Upper Columbia conservation commission -- purpose and duties.** (1) The purpose of the upper Columbia conservation commission, established in [section 2], is to protect the aquatic environment in tributaries to the Columbia river from the threat of invasive species.

(2) The commission shall:

(a) monitor the condition of aquatic resources in the tributaries to the Columbia river and coordinate development of an annual monitoring plan. The plan must use a cooperative strategy among all water management agencies within the Columbia river basin in Montana and identify monitoring specific to invasive species threats.

(b) encourage the close cooperation and coordination between federal, state, regional, tribal, and local water resource managers for establishment of comprehensive monitoring, data collection, and interpretation;

(c) encourage and work for international cooperation and coordination between the state of Montana and the Canadian province of British Columbia;

(d) develop and implement an invasive species education and outreach strategy specifically for the upper Columbia river basin in Montana;

(e) encourage economic development by reducing threats from invasive species and conducting restoration and infestation control measures;

(f) provide an annual report of the following to the governor, the director of the department of natural resources and conservation, and the environmental quality council:

(i) a summary of information gathered in fulfillment of its duties under this section;

(ii) information on monitoring activities within the portions of the Columbia river basin occurring in Montana;

(iii) an accounting of all money received and expended by source and purpose for the period since the last report; and

(g) meet at least biannually, alternating the meeting site between the cities of Kalispell and Missoula.

(3) The commission may make recommendations to the governor and to federal, state, tribal, provincial, regional, and local agencies for reducing threats from invasive species and for conducting restoration and infestation control measures.

(4) The commission may receive and, subject to appropriation by the legislature, expend donations, gifts, grants, and other money necessary to fulfill its duties.

**Section 7. Upper Columbia pilot program -- rulemaking.** The Flathead basin commission established in 2-15-3330 shall administer a pilot program within the Flathead basin, as defined in 75-7-303, to enhance protections in the basin against invasive species and may:

(1) within or adjacent to the Flathead basin, use certification stations that may provide voluntary inspections and decontamination of vessels but at which vessels are not required to stop. Certification stations may be operated by government or private entities that are trained, certified, and monitored for quality assurance by the Flathead basin commission.

(2) band or track vessels that have been inspected, require decontamination, or are certified by the department of fish, wildlife, and parks for local use;

(3) implement a boat sticker program to raise funds for prevention efforts;

(4) use automated inspection and detection devices; and

(5) pursuant to 2-4-315, petition the fish and wildlife commission to adopt rules for the Flathead basin, including but not limited to rules that:

(a) require inspection of all vessels before they are launched;

(b) close launch sites, as needed;

(c) prohibit or restrict certain vessels and equipment, such as waterborne planes, ballast boats, and aquatic weed harvesters, from use on specific or all water bodies within the basin;

(d) prohibit or restrict certain types of dead and live bait; and

(e) close waters where invasive mussels have been detected until a containment strategy can be implemented.

**Section 8.** Section 80-7-1003, MCA, is amended to read:

**"80-7-1003. Definitions.** As used in this part, the following definitions apply:

(1) "Departments" means the department of agriculture, the department of fish, wildlife, and parks, the department of natural resources and conservation, and the department of transportation.

(2) "Equipment" means an implement or machinery that has been wholly or partially immersed in surface waters, including but not limited to boat lifts, trailers transporting vessels, floating docks, pilings, dredge pipes, and buoys.

(3) "Invasive species" means, upon the mutual agreement of the directors of the departments, a nonnative, aquatic species that has caused, is causing, or is likely to cause harm to the economy, environment, recreational opportunities, or human health.

(4) "Invasive species management area" means a designation made by a department under 80-7-1008 for a specific area or for a body or bodies of water for a specific or indeterminate amount of time that regulates invasive species or potential carriers of invasive species within the boundaries of that area.

(5) "Person" means an individual, partnership, corporation, association, limited partnership, limited liability company, governmental subdivision, agency, or public or private organization of any character.

(6) "Tributaries to the Columbia river" means all water bodies in Montana from which water drains into the Columbia river.

~~(6)~~(7) "Vessel" has the meaning provided in 61-1-101."

**Section 9.** Section 80-7-1007, MCA, is amended to read:

**"80-7-1007. Rulemaking authority.** (1) Unless otherwise provided in Title 81, chapters 2 and 7, or this chapter, each of the departments may adopt rules for the prevention, early detection, and control of invasive species under the departments' jurisdiction, including rules for the:

- (a) implementation of the invasive species strategic plan adopted pursuant to 80-7-1006;
- (b) transportation of an invasive species or any agent likely to be a carrier of an invasive species;
- (c) designation, regulation, and treatment of an invasive species management area under 80-7-1008,

including rules pertaining to:

- (i) the use of quarantine regulations and measures;
- (ii) the movement of vessels and equipment within, to, or from the area; and
- (iii) the inspection and cleaning of vessels and equipment moving within, to, or from the area; ~~and~~
- (d) manner in which vessels and equipment, including bilges, livewells, bait containers, and other boating-related equipment, traveling in the state must be cleaned to ensure that they are free from the presence

of an invasive species; and

(e) prohibition on the use of felt-soled waders.

(2) The departments shall adopt rules for the administration of the statewide species management area

established in 80-7-1015, including rules specifying the method or methods for preventing the introduction or further introduction of invasive species into the state, and shall adopt rules for:

- (a) the use of quarantine measures;
- (b) the movement of vessels and equipment into the state; and
- (c) the manner in which check stations will be used to inspect, clean, and decontaminate vessels and equipment moving into the state."

**Section 10.** Section 80-7-1008, MCA, is amended to read:

**"80-7-1008. Invasive species management area -- authorization.** (1) Except as provided in 80-7-1015, when an invasive species is identified as infesting or threatening an area, the department with jurisdiction over that invasive species may designate and administer an invasive species management area for a specific area of land or for a body or bodies of water for a specific or indeterminate amount of time to prevent and control the infestation or spread of that invasive species.

(2) To the extent practicable, prior to the designation of an invasive species management area, the department making the designation shall coordinate with all of the departments in order to further the purposes of this part.

(3) The designation of an invasive species management area must specify:

- (a) the invasive species present or considered threatening; and
- (b) the method or methods for preventing the introduction of the species or controlling or eradicating the species, including regulations pertaining to:
  - (i) the use of quarantine measures;
  - (ii) the movement of vessels and equipment within, to, and from the area; and
  - (iii) whether check stations will be used to inspect and clean vessels and equipment moving within, to, or from the area. ~~A department may conduct mandatory~~ Mandatory inspections of any interior portion of a vessel or equipment that may contain water may occur only if ~~the department has included~~ the use of mandatory inspections is included as part of quarantine measures established pursuant to subsection (3)(b)(i).

(4) As far as practical, signs indicating that an invasive species management area is in place must be posted in an effective manner at access points to the designated area and along the boundaries and within the area. The signs must include information about the specific regulations that apply to the area. The signs must be paid for with funds from the invasive species account established in 80-7-1004. The departments may coordinate with any other governmental entity for the posting of signs."

**Section 11.** Section 80-7-1011, MCA, is amended to read:

**"80-7-1011. Check stations.** (1) The departments shall establish a check station within or adjacent to an invasive species management area to prevent the introduction, importation, infestation, and spread of the invasive species for which the designation was issued.

(2) At a check station established under subsection (1), the departments may examine vessels and equipment for the presence of an invasive species and compliance with regulations imposed under 80-7-1008(3)(b) and with this section. ~~A department may examine~~ Examination of any interior portion of a vessel or equipment that may contain water, including bilges, livewells, and bait containers, for compliance may occur only if inspection of interior portions is included as part of quarantine measures established pursuant to 80-7-1008(3)(b)(i).

(3) The owner, operator, or person in possession of a vessel or equipment shall stop at any check station unless a medical emergency makes stopping likely to result in death or serious bodily injury.

(4) If during an inspection of a vessel or equipment the presence of an invasive species is detected, that vessel or equipment may not leave the check station without authorization until it is cleaned and decontaminated in a manner established in accordance with 80-7-1008(3)(b). ~~The department shall make every~~ Every effort must be made to ensure decontamination of the vessel or equipment as expeditiously as possible."

**Section 12.** Section 80-7-1014, MCA, is amended to read:

**"80-7-1014. Penalty.** (1) Except as provided in subsection (2), the following penalties apply:

(a) The offense of negligently violating the provisions of 80-7-1010 through 80-7-1012 and 80-7-1015 or rules adopted under 80-7-1010 through 80-7-1012 and 80-7-1015 pertaining to an invasive species management area or the statewide invasive species management area is a misdemeanor punishable by a fine not to exceed \$500 for the first offense and \$750 for subsequent offenses.

(b) The offense of purposely or knowingly violating the provisions of 80-7-1010 through 80-7-1012 and 80-7-1015 or rules adopted under 80-7-1010 through 80-7-1012 and 80-7-1015 pertaining to an invasive species management area or the statewide invasive species management area is a misdemeanor punishable by a fine not to exceed ~~\$1,000~~ \$975. In addition, the person shall forfeit the following as issued by this state:

(i) any current fishing license and the privilege to fish in this state for a period of time set by the court;

and

(ii) any current sticker or decal required under this part to operate a vessel on the waters of this state.

(c) Purposely or knowingly attempting to introduce an invasive species in Montana is a felony. Any person found guilty under this subsection (1)(c) is subject to a criminal penalty of up to 2 years in prison, a fine not to exceed ~~\$5,000~~ \$10,000, or both. A person convicted of violating this subsection (1)(c) may also be required to surrender an involved vessel and pay restitution for any cost incurred to mitigate the effect of the violation.

(d) A civil penalty not to exceed ~~\$250~~ \$2,500 may be imposed on any person who violates any other provision of 80-7-1010 through 80-7-1012 and 80-7-1015 or rules adopted under 80-7-1010 through 80-7-1012 and 80-7-1015 not enumerated in subsections (1)(a) through (1)(c).

(2) A warning without penalty may be issued to any person violating the provisions of 80-7-1010 through 80-7-1012 and 80-7-1015 or rules adopted under 80-7-1010 through 80-7-1012 and 80-7-1015 if it is determined that a warning best serves the public interest.

(3) Civil penalties collected under this section must be deposited in the general fund."

**Section 13.** Section 80-7-1015, MCA, is amended to read:

**"80-7-1015. Statewide invasive species management area.** (1) There is established a statewide invasive species management area for the purpose of preventing the introduction, importation, and infestation of invasive species through the mandatory inspection of vessels and equipment ~~at key entry points to~~ entering the state ~~on a seasonal basis~~ and the mandatory decontamination of any vessel or equipment on or in which an invasive species is detected.

(2) To the greatest extent possible, the department of transportation shall cooperate with the department of fish, wildlife, and parks to utilize ports of entry or adjacent department of transportation facilities as locations for check stations established pursuant to this section.

(3) As far as practical, signs indicating that the statewide invasive species management area is in place must be posted in an effective manner along the boundaries of and within the state. The signs must include information about the specific regulations that apply to the area. The signs must be paid for with funds from the invasive species account established in 80-7-1004. The departments may coordinate with any other governmental entity for the posting of signs.

(4) At a check station established pursuant to this section, the departments may examine vessels and equipment for the presence of an invasive species and compliance with this section and rules adopted pursuant to 80-7-1007. ~~A department may examine~~ Examination of any interior portion of a vessel or equipment that may contain water, including bilges, livewells, and bait containers, for compliance may occur only if inspection of interior portions is included as part of quarantine measures established pursuant to rules adopted under

80-7-1007.

(5) The owner, operator, or person in possession of a vessel or equipment shall:

(a) comply with this section and rules imposed under 80-7-1007; and

(b) stop at any check station established pursuant to this section unless a medical emergency makes stopping likely to result in death or serious bodily injury.

(6) If during an inspection of a vessel or equipment the presence of an invasive species is detected, that vessel or equipment may not leave the check station without authorization until it is cleaned and decontaminated in a manner established in accordance with rules adopted pursuant to 80-7-1007. ~~The department shall make every~~ Every effort must be made to ensure decontamination of the vessel or equipment as expeditiously as possible.

(7) After use in a body of water within the statewide invasive species management area, all vessels, equipment, bait containers, livewells, bilges, and other boating-related equipment, excluding marine sanitary systems, must be drained in a way that does not impact any state waters before being transported on land or on a public highway, as defined in 61-1-101, except when allowed by the department of fish, wildlife, and parks."

**Section 14. Appropriation.** For the biennium beginning July 1, 2017, there is appropriated from the invasive species account established in 80-7-1004:

(1) \$95,000 to the invasive species council established in [section 1]; and

(2) \$10,000 to the upper Columbia conservation commission established in [section 2].

**Section 15. Notification to tribal governments.** The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

**Section 16. Codification instruction.** (1) [Sections 1 and 2] are intended to be codified as an integral part of Title 2, chapter 15, part 33, and the provisions of Title 2, chapter 15, part 33, apply to [sections 1 and 2].

(2) [Section 3] is intended to be codified as an integral part of Title 7, chapter 22, and the provisions of Title 7, chapter 22, apply to [section 3].

(3) [Section 4] is intended to be codified as an integral part of Title 80, chapter 7, and the provisions of Title 80, chapter 7, apply to [section 4].

(4) [Sections 5 through 7] are intended to be codified as an integral part of Title 80, chapter 7, part 10, and the provisions of Title 80, chapter 7, part 10, apply to [sections 5 through 7].

**Section 17. Effective dates.** (1) Except as provided in subsection (2), [this act] is effective on passage and approval.

(2) [Section 14] is effective July 1, 2017.

**Section 18. Termination.** [Section 7] terminates June 30, 2019.

- END -

I hereby certify that the within bill,  
HB 0622, originated in the House.

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Speaker of the House

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2017.

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Chief Clerk of the House

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President of the Senate

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2017.

HOUSE BILL NO. 622

INTRODUCED BY M. CUFFE, B. KEENAN, M. NOLAND, A. OLSZEWSKI

AN ACT REVISING LAWS RELATED TO INVASIVE SPECIES; ESTABLISHING THE INVASIVE SPECIES COUNCIL; ESTABLISHING THE UPPER COLUMBIA CONSERVATION COMMISSION; PROVIDING POWERS AND DUTIES; REQUIRING REPORTING; REVISING LOCATION AND TIMING OF INSPECTIONS IN THE STATEWIDE INVASIVE SPECIES MANAGEMENT AREA; AUTHORIZING COUNTY INVASIVE SPECIES ORDINANCES; ESTABLISHING THE MISSOURI RIVER CONTAINMENT AND QUARANTINE PROGRAM; ESTABLISHING THE UPPER COLUMBIA PILOT PROGRAM; REVISING PENALTIES; PROVIDING APPROPRIATIONS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 80-7-1003, 80-7-1007, 80-7-1008, 80-7-1011, 80-7-1014, AND 80-7-1015, MCA; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE.