

HOUSE BILL NO. 622

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

A BILL FOR AN ACT ENTITLED: "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; PROVIDING APPROPRIATIONS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 80-7-1003, 80-7-1007, 80-7-1008, 80-7-1011, AND 80-7-1015, MCA; AND PROVIDING EFFECTIVE DATES."

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

NEW SECTION. **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;
- (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;

- 1 (viii) hydropower utility industry;
- 2 (ix) private landowners; and
- 3 (x) each of the tribal governments in Montana.
- 4 (3) The council shall seek active input and participation in its deliberations from the U.S. army corps of
5 engineers, the U.S. bureau of reclamation, the U.S. bureau of land management, the U.S. department of
6 agriculture animal and plant health inspection service, the U.S. fish and wildlife service, the U.S. forest service,
7 and the national park service.
- 8 (4) The council members shall serve without pay. Unless otherwise provided by law, each council
9 member is entitled to be reimbursed for travel expenses pursuant to 2-18-501 through 2-18-503.
- 10 (5) Council members shall serve staggered 4-year terms.
- 11 (6) A majority of the membership of the council constitutes a quorum to do business. A favorable vote
12 of at least a majority of all of the members is required to adopt any resolution, motion, or to make any other
13 decision.
- 14 (7) The council shall meet no less than twice annually.
- 15 (8) The governor shall appoint the presiding officer, who shall serve in that capacity for a 2-year term.
- 16 (9) The presiding officer and the director of the department of natural resources and conservation shall
17 serve as the council's liaisons to the governor's office.
- 18
- 19 **NEW SECTION. Section 2. Upper Columbia conservation commission.** (1) There is an upper
20 Columbia conservation commission within the department of natural resources and conservation. The
21 commission is attached to the department for administrative purposes only, as prescribed in 2-15-121.
- 22 (2) There are nine voting commission members who are appointed by and serve at the pleasure of the
23 governor. They include two members at large and a representative of each of the following:
- 24 (a) the hydropower utility industry;
- 25 (b) conservation districts;
- 26 (c) recreation organizations;
- 27 (d) private industry;
- 28 (e) private landowners;
- 29 (f) the Confederated Salish and Kootenai Tribes; and
- 30 (g) the invasive species council established in [section 1].

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

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

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

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

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

13 (8) The governor shall appoint the presiding officer.
14

15 **NEW SECTION. Section 3. Invasive species council -- purpose and duties -- reporting --**

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

19 (2) The council shall:

20 (a) provide policy level recommendations, direction, and planning assistance for combating infestations
21 of invasive species throughout the state and preventing the introduction of other invasive species;

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

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

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

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

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

1 program priorities;

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

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

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

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

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

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

12

13 **NEW SECTION. Section 4. Upper Columbia conservation commission -- purpose and duties.** (1)

14 The purpose of the upper Columbia conservation commission, established in [section 2], is to protect the aquatic
15 environment in tributaries to the Columbia river from the threat of invasive species.

16 (2) The commission shall:

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

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

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

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

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

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

- 1 (i) a summary of information gathered in fulfillment of its duties under this section;
2 (ii) information on monitoring activities within the portions of the Columbia river basin occurring in
3 Montana;
4 (iii) an accounting of all money received and expended by source and purpose for the period since the
5 last report; and

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

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

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

12

13 **Section 5.** Section 80-7-1003, MCA, is amended to read:

14 **"80-7-1003. Definitions.** As used in this part, the following definitions apply:

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

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

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

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

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

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

30 ~~(6)~~(7) "Vessel" has the meaning provided in 61-1-101."

1
2 **Section 6.** Section 80-7-1007, MCA, is amended to read:
3 **"80-7-1007. Rulemaking authority.** (1) Unless otherwise provided in Title 81, chapters 2 and 7, or this
4 chapter, each of the departments may adopt rules for the prevention, early detection, and control of invasive
5 species under the departments' jurisdiction, including rules for the:

- 6 (a) implementation of the invasive species strategic plan adopted pursuant to 80-7-1006;
7 (b) transportation of an invasive species or any agent likely to be a carrier of an invasive species;
8 (c) designation, regulation, and treatment of an invasive species management area under 80-7-1008,
9 including rules pertaining to:
10 (i) the use of quarantine regulations and measures;
11 (ii) the movement of vessels and equipment within, to, or from the area; and
12 (iii) the inspection and cleaning of vessels and equipment moving within, to, or from the area; ~~and~~
13 (d) manner in which vessels and equipment, including bilges, livewells, bait containers, and other
14 boating-related equipment, traveling in the state must be cleaned to ensure that they are free from the presence
15 of an invasive species; and
16 (e) prohibition on the use of felt-soled waders.

17 (2) The departments shall adopt rules for the administration of the statewide species management area
18 established in 80-7-1015, including rules specifying the method or methods for preventing the introduction or
19 further introduction of invasive species into the state, and shall adopt rules for:

- 20 (a) the use of quarantine measures;
21 (b) the movement of vessels and equipment into the state; and
22 (c) the manner in which check stations will be used to inspect, clean, and decontaminate vessels and
23 equipment moving into the state."
24

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

26 **"80-7-1008. Invasive species management area -- authorization.** (1) Except as provided in 80-7-1015,
27 when an invasive species is identified as infesting or threatening an area, the department with jurisdiction over
28 that invasive species may designate and administer an invasive species management area for a specific area
29 of land or for a body or bodies of water for a specific or indeterminate amount of time to prevent and control the
30 infestation or spread of that invasive species.

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

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

5 (a) the invasive species present or considered threatening; and

6 (b) the method or methods for preventing the introduction of the species or controlling or eradicating the
 7 species, including regulations pertaining to:

8 (i) the use of quarantine measures;

9 (ii) the movement of vessels and equipment within, to, and from the area; and

10 (iii) whether check stations will be used to inspect and clean vessels and equipment moving within, to,
 11 or from the area. ~~A department may conduct mandatory~~ Mandatory inspections of any interior portion of a vessel
 12 or equipment that may contain water may occur only if ~~the department has included~~ the use of mandatory
 13 inspections is included as part of quarantine measures established pursuant to subsection (3)(b)(i).

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

19

20 **Section 8.** Section 80-7-1011, MCA, is amended to read:

21 **"80-7-1011. Check stations.** (1) The departments shall establish a check station within or adjacent to
 22 an invasive species management area to prevent the introduction, importation, infestation, and spread of the
 23 invasive species for which the designation was issued.

24 (2) At a check station established under subsection (1), the departments may examine vessels and
 25 equipment for the presence of an invasive species and compliance with regulations imposed under
 26 80-7-1008(3)(b) and with this section. ~~A department may examine~~ Examination of any interior portion of a vessel
 27 or equipment that may contain water, including bilges, livewells, and bait containers, for compliance may occur
 28 only if inspection of interior portions is included as part of quarantine measures established pursuant to
 29 80-7-1008(3)(b)(i).

30 (3) The owner, operator, or person in possession of a vessel or equipment shall stop at any check station

1 unless a medical emergency makes stopping likely to result in death or serious bodily injury.

2 (4) If during an inspection of a vessel or equipment the presence of an invasive species is detected, that
3 vessel or equipment may not leave the check station without authorization until it is cleaned and decontaminated
4 in a manner established in accordance with 80-7-1008(3)(b). ~~The department shall make every~~ Every effort must
5 be made to ensure decontamination of the vessel or equipment as expeditiously as possible."
6

7 **Section 9.** Section 80-7-1015, MCA, is amended to read:

8 **"80-7-1015. Statewide invasive species management area.** (1) There is established a statewide
9 invasive species management area for the purpose of preventing the introduction, importation, and infestation
10 of invasive species through the mandatory inspection of vessels and equipment ~~at key entry points to entering~~
11 the state ~~on a seasonal basis~~ and the mandatory decontamination of any vessel or equipment on or in which an
12 invasive species is detected.

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

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

21 (4) At a check station established pursuant to this section, the departments may examine vessels and
22 equipment for the presence of an invasive species and compliance with this section and rules adopted pursuant
23 to 80-7-1007. ~~A department may examine~~ Examination of any interior portion of a vessel or equipment that may
24 contain water, including bilges, livewells, and bait containers, for compliance may occur only if inspection of
25 interior portions is included as part of quarantine measures established pursuant to rules adopted under
26 80-7-1007.

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

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

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

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

6 (7) After use in a body of water within the statewide invasive species management area, all vessels,
 7 equipment, bait containers, livewells, bilges, and other boating-related equipment, excluding marine sanitary
 8 systems, must be drained in a way that does not impact any state waters before being transported on land or on
 9 a public highway, as defined in 61-1-101, except when allowed by the department of fish, wildlife, and parks."
 10

11 NEW SECTION. Section 10. Appropriation. For the biennium beginning July 1, 2017, there is
 12 appropriated from the invasive species account established in 80-7-1004:

- 13 (1) \$95,000 to the invasive species council established in [section 1]; and
 14 (2) \$10,000 to the upper Columbia conservation commission established in [section 2].
 15

16 NEW SECTION. Section 11. Notification to tribal governments. The secretary of state shall send
 17 a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell
 18 Chippewa tribe.
 19

20 NEW SECTION. Section 12. Codification instruction. (1) [Sections 1 and 2] are intended to be
 21 codified as an integral part of Title 2, chapter 15, part 33, and the provisions of Title 2, chapter 15, part 33, apply
 22 to [sections 1 and 2].

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

25 (3) [Section 4] is intended to be codified as an integral part of Title 80, chapter 7, part 10, and the
 26 provisions of Title 80, chapter 7, part 10, apply to [section 4].
 27

28 NEW SECTION. Section 13. Effective dates. (1) Except as provided in subsection (2), [this act] is
 29 effective on passage and approval.

30 (2) [Section 10] is effective July 1, 2017.
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- END -