

HOUSE BILL NO. 643

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Bill Status

H0643.....by STATE AFFAIRS
INVASIVE SPECIES ACT - Adds to existing law to provide for the Invasive
Species Act of 2008.

03/13 House intro - 1st rdg - to printing

03/14 Rpt prt - to 2nd rdg

03/17 2nd rdg - to 3rd rdg

03/18 3rd rdg - PASSED - 66-0-4

AYES -- Anderson, Andrus, Barrett, Bayer, Bedke, Bell, Bilbao, Black, Block, Bock, Boe, Bolz, Bowers, Brackett, Chadderdon, Chavez, Chew, Clark, Collins, Crane, Durst, Eskridge, Hagedorn, Hart, Harwood, Henbest, Henderson, Jaquet, Killen, King, Kren, Labrador, Lake, LeFavour, Loertscher, Luker, Marriott, Mathews, McGeachin, Mortimer, Nielsen, Nonini, Pasley-Stuart, Patrick, Pence, Raybould, Ringo, Ruchti, Rusche, Sayler, Shepherd(02), Shepherd(08), Shirley, Shively, Smith(30), Smith(24), Snodgrass, Stevenson, Thayn, Thomas, Trail, Vander Woude, Wills, Wood(27), Wood(35), Mr. Speaker

NAYS -- None

Absent and excused -- Bradford, Moyle, Roberts, Schaefer

Floor Sponsor - Anderson

Title apvd - to Senate

03/19 Senate intro - 1st rdg - to Res/Env

03/27 Rpt out - rec d/p - to 2nd rdg

03/28 2nd rdg - to 3rd rdg

03/31 3rd rdg - PASSED - 32-0-3

AYES -- Andreason, Bair, Bastian, Bilyeu, Broadsword, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Gannon(Gannon), Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, Malepeai(Sagness), McGee, McKague, Richardson, Schroeder, Siddoway, Stegner, Stennett, Werk

NAYS -- None

Absent and excused -- Burkett, McKenzie, Pearce

Floor Sponsor - Keough

Title apvd - to House

04/01 To enrol/Rpt enrol - Sp signed - Pres signed
04/02 To Governor
04/09 Governor signed
Session Law Chapter 387
Effective: 04/09/08

Bill Text

]]]] LEGISLATURE OF THE STATE OF IDAHO]]]]
Fifty-ninth Legislature Second Regular Session - 2008

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 643

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO INVASIVE SPECIES; AMENDING TITLE 22, IDAHO CODE, BY THE ADDITION
2 OF A NEW CHAPTER 19, TITLE 22, IDAHO CODE, TO PROVIDE A TITLE, TO PROVIDE
3 FINDINGS OF THE LEGISLATURE, TO PROVIDE FOR ADMINISTRATION, TO DEFINE
4 TERMS, TO PROHIBIT CERTAIN ACTIONS AND TO PROVIDE EXCEPTIONS, TO PROVIDE
5 FOR DUTIES OF THE DEPARTMENT AND DIRECTOR, TO PROVIDE FOR RULES AND
6 ORDERS, TO PROVIDE FOR INSPECTIONS, TO PROVIDE FOR THE DISPOSITION OF IN-
7 VASIVE SPECIES, TO PROVIDE FOR HOLD ORDERS, TO PROVIDE FOR THE INVASIVE
8 SPECIES FUND, TO PROVIDE FOR CONTROL AND ERADICATION COSTS, TO PROVIDE FOR
9 PENALTIES, TO PROVIDE FOR COOPERATIVE AGREEMENTS, TO AUTHORIZE THE DEPART-
10 MENT TO CONDUCT CERTAIN CONTROL MEASURES, TO PROVIDE FOR DELEGATION OF
11 CERTAIN AUTHORITY BY THE DEPARTMENT, TO CLARIFY THAT DESIGNATED PROVISIONS
12 SHALL NOT TERMINATE OR MODIFY EXISTING CIVIL OR CRIMINAL LIABILITIES
13 RELATING TO PLANT PESTS, TO PROVIDE THAT CERTAIN PERSONS AND ENTITIES
14 SHALL BE HELD HARMLESS IN RELATION TO IMPLEMENTATION OF DESIGNATED PROVI-
15 SIONS AND TO PROVIDE FOR SEVERABILITY; AND DECLARING AN EMERGENCY.
16

17 Be It Enacted by the Legislature of the State of Idaho:

18 SECTION 1. That Title 22, Idaho Code, be, and the same is hereby amended
19 by the addition thereto of a NEW CHAPTER, to be known and designated as Chap-
20 ter 19, Title 22, Idaho Code, and to read as follows:

CHAPTER 19

THE IDAHO INVASIVE SPECIES ACT OF 2008

23 22-1901. TITLE. This chapter shall be known as "The Idaho Invasive Spe-
24 cies Act of 2008."

25 22-1902. LEGISLATIVE FINDINGS. The legislature finds that:

26 (1) The purpose of this chapter is to address the concerns about the
27 increasing threat of invasive species by providing policy direction, planning
28 and authority to combat invasive species infestations throughout the state and
29 to prevent the introduction of new species that may be harmful;

30 (2) The land, water and other resources of Idaho are being severely
31 affected by invasions of an increasing number of harmful, invasive species;

32 (3) These invasions are damaging Idaho's environment and causing economic
33 hardships;

34 (4) Idaho is a national leader in the control of invasive species, par-
35 ticularly noxious weeds and agricultural pests, and has a strong network of
36 local, state, federal, tribal and private entities actively and cooperatively
37 combating the threat;

38 (5) Prevention, early detection, rapid response and eradication are the
39 most effective and least costly strategies against invasive species because
40 they combat new invasions before they expand beyond feasible control;

41 (6) Implementing these strategies requires the state of Idaho to enhance

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1 its capacity to prioritize risks, prevent new invasions, employ early detec-
2 tion and rapid response techniques, apply state of the art control and manage-
3 ment strategies, coordinate multiple public and private efforts and involve
4 the public;

5 (7) An effective invasive species program must foster and support local
6 initiatives; and

7 (8) The multitude of public and private entities with an interest in con-
8 trolling and preventing the spread of harmful invasive species in Idaho need a
9 mechanism for cooperation and collaboration to meet the threat of invasive
10 species.

11 22-1903. ADMINISTRATION. This chapter shall be administered by the Idaho
12 state department of agriculture.

13 22-1904. DEFINITIONS. Unless otherwise noted in this chapter the defini-
14 tions as set forth in section 22-2005, Idaho Code, are adopted by reference.

15 (1) "Environmental harm" means to cause significant adverse effects on
16 uses of natural resources or on plants or animals.

17 (2) "Invasive species" means species not native to Idaho, including their
18 seeds, eggs, spores, larvae or other biological material capable of propaga-
19 tion, that cause economic or environmental harm and are capable of spreading
20 in the state. "Invasive species" does not include crops, improved forage
21 grasses, domestic livestock, or other beneficial nonnative organisms.

22 22-1905. PROHIBITED ACTIONS. No person may import, export, purchase,
23 sell, barter, distribute, propagate, transport or introduce an invasive spe-
24 cies into or within the state of Idaho and no person may possess an invasive
25 species, except:

26 (1) Under a permit issued by the director;

27 (2) When being transported to an appropriate state authority, or another
28 destination as such authority may direct, in a sealed container for purposes
29 of identifying the species or reporting the presence of the species;

- 30 (3) When being transported for disposal as part of an approved control
31 activity under a permit issued pursuant to section 22-1906, Idaho Code;
32 (4) When the specimen has been lawfully acquired dead and, in the case of
33 plant species, all seeds are removed or are otherwise rendered nonviable;
34 (5) In the form of herbaria or other preserved specimens, so long as such
35 specimens are rendered nonviable; or
36 (6) As the director may otherwise prescribe by rule.

37 22-1906. DUTIES OF THE DEPARTMENT AND DIRECTOR. The department may pre-
38 vent and control, by such means as shall be prescribed and provided by law,
39 rule or by order of the department, all invasive species that may cause eco-
40 nomic or environmental harm to the state. The director shall:

- 41 (1) After due investigation, report the detection of new invasive species
42 within the state to the appropriate state and federal officials;
43 (2) Issue permits for the transport or possession of an invasive species
44 into, within or through the state of Idaho. Permits shall include requirements
45 to ensure the containment of that species, as may be prescribed in rule.
46 These duties shall not usurp existing provisions of the Idaho Code, programs
47 that deal with invasive species issues, or the individual missions of any
48 state agency or duplicate efforts existing upon passage of this act.

49 22-1907. RULES AND ORDERS. The director is hereby authorized to promul-
50 gate rules necessary for the efficient enforcement of the provisions of this

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1 chapter. Rulemaking authority shall include, but not be limited to, the deter-
2 mination of which species are invasive and the establishment of procedures for
3 testing, sampling, inspection, certification, permitting, compliance verifica-
4 tion and recordkeeping. The director may by written order designate a species
5 as invasive until such time as it may be added to the official rules of the
6 department.

7 22-1908. AUTHORITY TO CONDUCT INSPECTIONS. (1) In order to accomplish the
8 purposes of this chapter, the director may enter upon and inspect any public
9 or private premises, lands, bodies of water, or means of conveyance, or arti-
10 cle of any person within this state, for the purpose of inspecting, surveying,
11 treating, controlling, collecting samples, or destroying any invasive species.

12 (2) The director may establish check stations at points of entry to the
13 state, or other facilities and sites throughout the state, as necessary to
14 carry out the provisions of this chapter.

15 22-1909. DISPOSITION OF INVASIVE SPECIES. The director is authorized to
16 seize, decontaminate or destroy any invasive species found in this state from
17 public or private ownership or control as necessary to carry out the provi-
18 sions of this chapter.

19 22-1910. HOLD ORDER. The director may issue hold orders to take prompt
20 regulatory action in invasive species emergencies on any article, commodity,
21 vehicle or other means of transportation entering this state in violation of
22 this chapter or rules promulgated hereunder.

23 22-1911. INVASIVE SPECIES FUND. There is hereby established in the state
24 treasury an invasive species fund.

25 (1) The fund shall receive such appropriations as deemed necessary by the
26 governor and the legislature to accomplish the goals of this chapter. The fund
27 shall also receive moneys from the collection of reasonable fees for permits
28 or as otherwise required by this chapter or rules promulgated hereunder. The
29 fund may also receive, at the discretion of the director, moneys from any
30 other lawful source including, without limitation, fees, penalties, fines,
31 gifts, grants, legacies of money, property, securities or other assets, or any
32 other source, public or private.

33 (2) Moneys in the invasive species fund are subject to appropriation for
34 the purposes of this chapter. The fund shall be used to support activities
35 related to the prevention, detection, control and management of invasive spe-
36 cies in Idaho.

37 (3) All interest or other income accruing from moneys deposited to the
38 fund shall be redeposited and accrue to the fund. Any unexpended balance left
39 in the fund at the end of any fiscal year shall carry forward without reduc-
40 tion to the following fiscal year.

41 22-1912. CONTROL AND ERADICATION COSTS -- DEFICIENCY WARRANTS -- COOPERA-
42 TION WITH OTHER ENTITIES AND CITIZENS. Whenever the director determines that
43 there exists the threat of an infestation of an invasive species on state-
44 owned land or water, private, forested, range or agricultural land or water,
45 and that the infestation is of such a character as to be a menace to state,
46 private, range, forest or agricultural land or water, the director shall cause
47 the infestation to be controlled and eradicated, using such moneys as have
48 been appropriated or may hereafter be made available for such purposes. Pro-
49 vided however, that whenever the cost of control and eradication exceeds the
50 moneys appropriated or otherwise available for that purpose, the state board

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1 of examiners may authorize the issuance of deficiency warrants against the
2 general fund for up to five million dollars (\$5,000,000) in any one (1) year
3 for such control and eradication. Control and eradication costs may include,
4 but are not limited to, costs for survey, detection, inspection, enforcement,
5 diagnosis, treatment and disposal of infected or infested materials, cleaning
6 and disinfecting of infected premises or vessels and indemnity paid to owners
7 for infected or infested materials destroyed by order of the director. The
8 director, in executing the provisions of this chapter insofar as it relates to
9 control and eradication, shall have the authority to cooperate with federal,
10 state, county and municipal agencies and private citizens in control and erad-
11 ication efforts; provided, that in the case of joint federal/state programs,
12 state moneys shall only be used to pay the state's share of the cost of the
13 control and eradication efforts. Such moneys for which the state shall thus
14 become liable shall be paid as a part of the expenses of the Idaho state
15 department of agriculture out of appropriations that shall be made by the leg-
16 islature for that purpose from the general fund of the state. In all appropri-
17 ations hereafter made for expenses of the department, account shall be taken
18 of and provision made for this item of expense.

19 22-1913. PENALTIES FOR VIOLATIONS. (1) Any person who knowingly violates

20 any provision of this chapter, or of the rules promulgated hereunder for car-
21 rying out the provisions of this chapter, or who fails or refuses to comply
22 with any requirements herein specified, or who interferes with the department,
23 its agents, designees or employees, in the execution, or on account of the
24 execution of its or their duties under this chapter or rules promulgated here-
25 under, shall be guilty of a misdemeanor and upon conviction thereof, shall be
26 fined not more than three thousand dollars (\$3,000) or be imprisoned in a
27 county jail for not more than twelve (12) months or be subject to both such
28 fine and imprisonment.

29 (2) Any person who violates or fails to comply with any of the provisions
30 of this chapter or any rules promulgated hereunder may be assessed a civil
31 penalty by the department or its duly authorized agent of not more than ten
32 thousand dollars (\$10,000) for each offense and shall be liable for reasonable
33 attorney's fees.

34 (a) Assessment of a civil penalty may be made in conjunction with any
35 other department administrative action.

36 (b) No civil penalty may be assessed unless the person charged was given
37 notice and opportunity for a hearing pursuant to the Idaho administrative
38 procedure act.

39 (c) If the department is unable to collect such penalty or if any person
40 fails to pay all or a set portion of the civil penalty as determined by
41 the department, it may recover such amount by action in the appropriate
42 district court.

43 (d) Any person against whom the department has assessed a civil penalty
44 under the provisions of this section may, within twenty-eight (28) days of
45 the final action by the agency making the assessment, appeal the assess-
46 ment to the district court of the county in which the violation is alleged
47 by the department to have occurred.

48 (e) All civil penalties collected pursuant to this section shall be
49 remitted to the invasive species fund as authorized under section 22-1911,
50 Idaho Code.

51 (3) Nothing in this chapter shall be construed as requiring the director
52 to report minor violations for prosecution when he believes that the public
53 interest will be best served by suitable warnings or other administrative
54 action.

1 22-1914. COOPERATIVE AGREEMENTS. (1) The department may enter into coop-
2 erative agreements with persons and entities including, but not limited to,
3 civic groups and governmental agencies, to adopt and execute plans to detect
4 and control areas infested with invasive species. Such cooperative agreements
5 may include provisions for funding to implement agreements.

6 (2) If an invasive species occurs and cannot be adequately controlled by
7 individual persons, owners, tenants or local units of government, the depart-
8 ment may conduct the necessary control measures independently or on a coopera-
9 tive basis with federal or other units of government.

10 (3) The department shall have the authority to delegate selected and
11 clearly identified elements of its authorities and duties to another agency of
12 the state with appropriate expertise or administrative capacity upon mutual
13 agreement with that agency. The department is authorized to enter into memo-
14 randa of agreement with other state agencies to implement the delegations

15 authorized in this subsection. Such delegation may include provisions of fund-
 16 ing for implementation of the delegations. The department shall retain primary
 17 authority and responsibility for all requirements of this chapter unless
 18 otherwise directed herein.

19 22-1915. NO EFFECT ON EXISTING LIABILITY. The enactment of this chapter
 20 does not terminate or modify any civil or criminal liability relating to plant
 21 pests which exists prior to the effective date of this chapter.

22 22-1916. HOLD HARMLESS. Any state or federal agency or contractor, its
 23 officers, agents and employees implementing or enforcing the provisions of
 24 this chapter shall be held harmless against all claims arising from the good
 25 faith enforcement and implementation of the provisions of this chapter and
 26 rules promulgated hereunder, in accordance with the Idaho tort claims act,
 27 chapter 9, title 6, Idaho Code.

28 22-1917. SEVERABILITY. The provisions of this act are hereby declared to
 29 be severable and if any provision of this act or the application of such pro-
 30 vision to any person or circumstance is declared invalid for any reason, such
 31 declaration shall not affect the validity of the remaining portions of this
 32 act.

33 SECTION 2. An emergency existing therefor, which emergency is hereby
 34 declared to exist, this act shall be in full force and effect on and after its
 35 passage and approval.

Statement of Purpose / Fiscal Impact

STATEMENT OF PURPOSE

RS 18111

The intent of this legislation is to address the increasing threat of invasive species in the State of Idaho, by providing policy direction, planning and authority to combat invasive species infestations and to prevent the introduction of invasive species. A real and present danger to the waterways of Idaho does exist from the threat of certain invasive species including Quagga Mussels, and has prompted the need to act with urgency to prevent their introduction. This legislation establishes certain prohibited actions, duties of the department of agriculture and director, and authorizes the director to promulgate rules and gives authority to conduct inspections and establish check stations as necessary. Other duties include providing for hold orders, invasive species fund, cooperative agreements, authorization to conduct certain control measures, and hold harmless for certain persons and entities in relation to implementation of designated provisions. An emergency does exist.

FISCAL IMPACT

If necessary to implement certain measure of this legislation

Deficiency Warrants would be used for funding.

Contact

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STATEMENT OF PURPOSE/FISCAL NOTE

H 643