

**Fifty-ninth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 4, 2005**

SENATE BILL NO. 2338
(Senators Traynor, Tollefson, Wardner)
(Representatives Nelson, Porter)

AN ACT to create and enact five new subsections to section 20.1-01-02 and a new chapter to title 20.1 of the North Dakota Century Code, relating to prevention and control of aquatic nuisance species; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Five new subsections to section 20.1-01-02 of the North Dakota Century Code are created and enacted as follows:

"Aquatic nuisance species" means any nonindigenous, obligate aquatic species of plant or animal which is injurious to native and desirable aquatic species or which has a negative effect on aquatic habitats, environment, or the economy of the state.

"Introduce" means to place, release, or allow the escape of a nonnative species into a free-living state.

"Native aquatic species" means an animal or plant species that is naturally present and reproducing within this state or which naturally expands from its historic range into this state.

"Nonnative species" means a species that is not a native species.

"Transport" means to cause or attempt to cause a species to be carried or moved into or within the state and includes accepting or receiving the species for transportation or shipment. The term does not include the unintentional transport of a species while on a specific water of the state or to a connected water of the state where the species being transported is already present.

SECTION 2. A new chapter to title 20.1 of the North Dakota Century Code is created and enacted as follows:

Prevention and control of aquatic nuisance species. The director, to prevent and control aquatic nuisance species, shall:

1. Prepare a statewide management plan for aquatic nuisance species to be approved by the governor.
2. Organize an aquatic nuisance species committee, as provided for in the statewide management plan, composed of the director or the director's designee; representatives of the department of agriculture commissioner, state water commission, parks and recreation department, state department of health, and tourism division; up to five private entities or individuals; and a representative of tribal entities. The director or the director's designee is the chairman of the aquatic nuisance species committee.

3. Develop and adopt the state's list of aquatic nuisance species after consulting with the aquatic nuisance species committee. The list must be updated annually.
4. Provide for a permitting system to import listed aquatic nuisance species into or move those species within the state.
5. Develop rules to prevent the movement of aquatic nuisance species into or within the state.
6. Conduct aquatic nuisance species education and prevention efforts.
7. Provide for the partnership of the federal government, state agencies, and private or public organizations to fund aquatic nuisance species prevention efforts.

Compensation and expenses of appointive members of the aquatic nuisance committee.

Each appointive member of the committee is entitled to receive sixty-two dollars and fifty cents compensation per day and to reimbursement for expenses in the amounts provided in sections 44-08-04 and 54-06-09 while attending meetings of the committee or, at the discretion of the member, may receive either per diem compensation or expenses in those amounts while otherwise engaged in official business of the department, including time of travel between home and the place at which the member performs such duties.

Management plan. The statewide management plan must address:

1. Coordinated detection efforts and prevention of illegal introductions;
2. Coordinated dissemination of information concerning aquatic nuisance species among resource management agencies and organizations and impacted entities;
3. A coordinated education and awareness campaign;
4. Coordinated control of selected invasive species of aquatic plants and wild animals on lands and public waters;
5. A reasonable and workable inspection requirement for watercraft and equipment working on waters of the state, including those participating in organized events on the waters of the state;
6. Closure of points of access to infested waters, if the director determines closure is necessary;
7. Maintenance of public access to infested waters which are reasonably free of aquatic nuisance species; and
8. Notice to travelers of the penalties for violation of laws relating to aquatic nuisance species.

Inspection of watercraft. The director shall train and authorize personnel to inspect watercraft and associated equipment, including weed harvesters, for aquatic nuisance species before the watercraft and equipment enter or leave waters of the state during the open water season.

Infested waters - Restricted activities. The director shall designate a water of the state as an infested water if the director determines that the water contains a population of an aquatic nuisance species that may spread to other waters if use of the water and related activities is not regulated to prevent this spread. In determining which waters are infested with a nuisance species, the director shall consider:

1. The extent of a species distribution within the state;
2. The likely means of spread for a species; and

3. Whether rules specific to infested waters containing a specific species will effectively reduce that species' spread.

Prohibited activities. A person may not possess, import, purchase, sell, propagate, transport, or introduce a prohibited aquatic nuisance species except:

1. Under a permit issued by the director;
2. When being transported to the department, or another destination as the director may direct, in a sealed container for purposes of identifying the species or reporting the presence of the species;
3. When being transported for disposal as part of a harvest or control activity under a permit issued by the director or when being transported as specified by the director;
4. When the specimen has been lawfully acquired dead and, in the case of plant species, all seeds are removed or are otherwise secured in a sealed container;
5. When being removed from watercraft or equipment, or caught while angling, and immediately returned to the water from which it came; or
6. As the director otherwise may prescribe by rule.

Standard. The director may issue a permit under this chapter only if the director determines that the permitted activity does not pose an unreasonable risk of harm to natural resources or their use in the state. The director may deny, issue with conditions, modify, or revoke a permit issued under this chapter as necessary to ensure that the proposed activity will not pose an unreasonable risk of harm to natural resources or their use in the state.

Seizure. The director may seize or dispose of any specimens of prohibited aquatic nuisance species unlawfully possessed, imported, purchased, sold, propagated, transported, or introduced in this state.

Penalty. A person who violates this chapter is guilty of a class B misdemeanor.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Fifty-ninth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2338.

Senate Vote: Yeas 46 Nays 0 Absent 1

House Vote: Yeas 88 Nays 2 Absent 4

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2005.

Approved at _____ M. on _____, 2005.

Governor

Filed in this office this _____ day of _____, 2005,
at _____ o'clock _____ M.

Secretary of State