

1                                   **AQUATIC INVASIVE SPECIES**

2                                   **INTERDICTION ACT**

3                                   2008 GENERAL SESSION

4                                   STATE OF UTAH

5                                   **Chief Sponsor: Jon J. Greiner**

6                                   House Sponsor: Stephen H. Urquhart

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8                   **LONG TITLE**

9                   **General Description:**

10                   This bill amends and enacts provisions relating to the interdiction of invasive species.

11                   **Highlighted Provisions:**

12                   This bill:

- 13                   ▶ defines terms;
- 14                   ▶ prohibits the possession, release, or transportation of a Dreissena mussel;
- 15                   ▶ prohibits the transporting of a conveyance or equipment that has been in an infested
- 16 water without decontaminating the conveyance or equipment;
- 17                   ▶ requires a person who violates the chapter to reimburse the state's costs;
- 18                   ▶ establishes criminal penalties;
- 19                   ▶ authorizes the Division of Wildlife Resources to:
  - 20                   • stop, detain, inspect, impound, or quarantine a vehicle or vessel that may contain
  - 21 a Dreissena mussel;
  - 22                   • conduct an administrative checkpoint;
  - 23                   • order a person to decontaminate a vessel or vehicle; and
  - 24                   • inspect, restrict access to, or close a water body, facility, or water supply system;
- 25                   ▶ prohibits the Division of Wildlife Resources from closing or quarantining a water
- 26 supply system if a plan is implemented;
- 27                   ▶ requires the Division of Wildlife Resources to consult with an operator of a water
- 28 body, facility, or water supply system;
- 29                   ▶ requires a water supply system to:

- 30           • cooperate with the Division of Wildlife Resources; and
- 31           • implement a plan if infected with the Dreissena mussel;
- 32           ▶ requires a person to report the discovery of a Dreissena mussel to the Division of
- 33 Wildlife Resources;
- 34           ▶ authorizes the Wildlife Board to make rules; and
- 35           ▶ authorizes the division, a peace officer, or a port-of-entry agent to stop a driver at a
- 36 port-of-entry to check for invasive aquatic wildlife species.

**37 Monies Appropriated in this Bill:**

38           None

**39 Other Special Clauses:**

40           None

**41 Utah Code Sections Affected:**

42           AMENDS:

43                 **72-9-501**, as last amended by Laws of Utah 2005, Chapter 2

44           ENACTS:

45                 **23-27-101**, Utah Code Annotated 1953

46                 **23-27-102**, Utah Code Annotated 1953

47                 **23-27-201**, Utah Code Annotated 1953

48                 **23-27-202**, Utah Code Annotated 1953

49                 **23-27-301**, Utah Code Annotated 1953

50                 **23-27-302**, Utah Code Annotated 1953

51                 **23-27-303**, Utah Code Annotated 1953

52                 **23-27-401**, Utah Code Annotated 1953



54           *Be it enacted by the Legislature of the state of Utah:*

55                 Section 1. Section **23-27-101** is enacted to read:

**56                         CHAPTER 27. AQUATIC INVASIVE SPECIES INTERDICTION ACT**

**57   Part 1. General Provisions**

58 23-27-101. Title.

59 This chapter is known as the "Aquatic Invasive Species Interdiction Act."

60 Section 2. Section **23-27-102** is enacted to read:

61 23-27-102. Definitions.

62 As used in this chapter:

63 (1) "Board" means the Wildlife Board.

64 (2) (a) "Conveyance" means a terrestrial or aquatic vehicle or a vehicle part that may  
65 carry or contain a Dreissena mussel.

66 (b) "Conveyance" includes a motor vehicle, a vessel, a motorboat, a sailboat, a personal  
67 watercraft, a container, a trailer, a live well, or a bilge area.

68 (3) "Decontaminate" means to:

69 (a) drain and dry all non-treated water; and

70 (b) chemically or thermally treat in accordance with rule.

71 (4) "Director" means the director of the division.

72 (5) "Division" means the Division of Wildlife Resources.

73 (6) "Dreissena mussel" means a mussel of the genus Dreissena at any life stage,  
74 including a zebra mussel, a quagga mussel, and Conrad's false mussel.

75 (7) "Equipment" means an article, tool, implement, or device capable of carrying or  
76 containing:

77 (a) water; or

78 (b) a Dreissena mussel.

79 (8) "Executive director" means the executive director of the Department of Natural  
80 Resources.

81 (9) "Facility" means a structure that is located within or adjacent to a water body.

82 (10) "Infested water" means a geographic region, water body, facility, or water supply  
83 system within or outside the state that the board identifies in rule as carrying or containing a  
84 Dreissena mussel.

85 (11) "Water body" means natural or impounded surface water, including a stream, river,

86 spring, lake, reservoir, pond, wetland, tank, and fountain.

87 (12) (a) "Water supply system" means a system that treats, conveys, or distributes water  
88 for irrigation, industrial, waste water treatment, or culinary use.

89 (b) "Water supply system" includes a pump, canal, ditch, or pipeline.

90 (c) "Water supply system" does not include a water body.

91 Section 3. Section **23-27-201** is enacted to read:

92 **Part 2. Invasive Species Prohibited**

93 **23-27-201. Invasive species prohibited.**

94 (1) Except as authorized in this title or a board rule or order, a person may not:

95 (a) possess, import, export, ship, or transport a Dreissena mussel;

96 (b) release, place, plant, or cause to be released, placed, or planted a Dreissena mussel  
97 in a water body, facility, or water supply system; or

98 (c) transport a conveyance or equipment that has been in an infested water within the  
99 previous 30 days without decontaminating the conveyance or equipment.

100 (2) A person who violates Subsection (1):

101 (a) is strictly liable;

102 (b) is guilty of an infraction; and

103 (c) shall reimburse the state for all costs associated with detaining, quarantining, and  
104 decontaminating the conveyance or equipment.

105 (3) A person who knowingly or intentionally violates Subsection (1) is guilty of a class  
106 A misdemeanor.

107 Section 4. Section **23-27-202** is enacted to read:

108 **23-27-202. Reporting of invasive species required.**

109 (1) A person who discovers a Dreissena mussel within this state or has reason to believe  
110 a Dreissena mussel may exist at a specific location shall immediately report the discovery to the  
111 division.

112 (2) A person who violates Subsection (1) is guilty of a class A misdemeanor.

113 Section 5. Section **23-27-301** is enacted to read:

Part 3. Enforcement

**23-27-301. Division's power to prevent invasive species infestation.**

To eradicate and prevent the infestation of a Dreissena mussel, the division may:

(1) temporarily stop, detain, and inspect a conveyance or equipment that:

(a) the division reasonably believes is in violation of Section 23-27-201; or

(b) is stopped at a port-of-entry;

(2) require a motor vehicle transporting a conveyance or equipment to stop for an inspection at a port-of-entry if the Department of Transportation authorizes the division to use the port-of-entry;

(3) conduct an administrative checkpoint in accordance with Section 77-23-104;

(4) detain and quarantine a conveyance or equipment as provided in Section 23-27-302;

(5) order a person to decontaminate a conveyance or equipment; and

(6) inspect the following that may contain a Dreissena mussel:

(a) a water body;

(b) a facility; and

(c) a water supply system.

Section 6. Section **23-27-302** is enacted to read:

**23-27-302. Conveyance or equipment detainment or quarantine.**

(1) The division, a port-of-entry agent, or a peace officer may detain or quarantine a conveyance or equipment if:

(a) the division, agent, or peace officer:

(i) finds the conveyance or equipment contains a Dreissena mussel; or

(ii) reasonably believes that the person transporting the conveyance or equipment is in violation of Section 23-27-201; or

(b) the person transporting the conveyance or equipment refuses to submit to an inspection authorized by Section 23-27-301.

(2) The detainment or quarantine authorized by Subsection (1) may continue for:

(a) up to five days; or

- 142 (b) the period of time necessary to:
- 143 (i) decontaminate the conveyance or equipment; and
- 144 (ii) ensure that a Dreissena mussel is not living on or in the conveyance or equipment.

145 Section 7. Section **23-27-303** is enacted to read:

146 **23-27-303. Closing a water body, facility, or water supply system.**

147 (1) Except as provided by Subsection (6), if the division detects or suspects a Dreissena  
148 mussel is present in a water body, a facility, or a water supply system, the director or the  
149 director's designee may, with the concurrence of the executive director, order:

150 (a) the water body, facility, or water supply system closed to a conveyance or  
151 equipment;

152 (b) restricted access by a conveyance or equipment to a water body, facility, or water  
153 supply system; or

154 (c) a conveyance or equipment that is removed from or introduced to the water body,  
155 facility, or water supply system to be inspected, quarantined, or decontaminated in a manner and  
156 for a duration necessary to detect and prevent the infestation of a Dreissena mussel.

157 (2) If a closure authorized by Subsection (1) lasts longer than seven days, the division  
158 shall:

159 (a) provide a written update to the operator of the water body, facility, or water supply  
160 system every ten days on the division's effort to address the Dreissena infestation; and

161 (b) post the update on the division's website.

162 (3) (a) The board shall develop procedures to ensure proper notification of a state,  
163 federal, or local agency that is affected by a Dreissena mussel infestation.

164 (b) The notification shall include:

165 (i) the reasons for the closure, quarantine, or restriction; and

166 (ii) methods for providing updated information to the agency.

167 (4) When deciding the scope, duration, level, and type of restriction or a quarantine or  
168 closure location, the director shall consult with the person with the jurisdiction, control, or  
169 management responsibility over the water body, facility, or water supply system to avoid or

170 minimize disruption of economic and recreational activity.

171 (5) (a) A person that operates a water supply system shall cooperate with the division  
172 to implement a measure to:

173 (i) avoid infestation by a Dreissena mussel; and

174 (ii) control or eradicate a Dreissena mussel infestation that may occur in a water supply  
175 system.

176 (b) (i) If a Dreissena mussel is detected, the water supply system's operator, in  
177 cooperation with the division, shall prepare and implement a plan to control or eradicate a  
178 Dreissena mussel within the water supply system.

179 (ii) A plan required by Subsection (5)(b)(i) shall include a:

180 (A) method for determining the scope and extent of the infestation;

181 (B) method to control or eradicate the Dreissena mussel;

182 (C) method to decontaminate the water supply system containing the Dreissena mussel;

183 (D) systematic monitoring program to determine a change in the infestation; and

184 (E) requirement to update or revise the plan in conformity with a scientific advance in  
185 the method of controlling or eradicating a Dreissena mussel.

186 (6) (a) The division may not close or quarantine a water supply system if the operator  
187 has prepared and implemented a plan to control or eradicate a Dreissena mussel in accordance  
188 with Subsection (5).

189 (b) (i) The division may require the operator to update a plan.

190 (ii) If the operator fails to update or revise a plan, the division may close or quarantine  
191 the water supply system in accordance with this section.

192 Section 8. Section **23-27-401** is enacted to read:

193 **Part 4. Administration**

194 **23-27-401. Rulemaking authority.**

195 In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
196 board may make rules that:

197 (1) establish the procedures and requirements for decontaminating a conveyance or

198 equipment to prevent the introduction and infestation of a Dreissena mussel;

199 (2) establish the requirements necessary to provide proof that a conveyance or  
200 equipment is decontaminated;

201 (3) establish the notification procedures required in Section 23-27-303;

202 (4) identify the geographic area, water body, facility, or water supply system that is  
203 infested by Dreissena mussels;

204 (5) establish a procedure and protocol in cooperation with the Department of  
205 Transportation for stopping, inspecting, detaining, and decontaminating a conveyance or  
206 equipment at a port-of-entry in accordance with Section 23-27-301; and

207 (6) are necessary to administer and enforce the provisions of this chapter.

208 Section 9. Section **72-9-501** is amended to read:

209 **72-9-501. Construction, operation, and maintenance of ports-of-entry by the**  
210 **department -- Function of ports-of-entry -- Checking and citation powers of port-of-entry**  
211 **agents.**

212 (1) (a) The department shall construct ports-of-entry for the purpose of checking motor  
213 carriers, drivers, vehicles, and vehicle loads for compliance with state and federal laws including  
214 laws relating to:

215 (i) driver qualifications;

216 (ii) Title 53, Chapter 3, Part 4, Uniform Commercial Driver License Act;

217 (iii) vehicle registration;

218 (iv) fuel tax payment;

219 (v) vehicle size, weight, and load;

220 (vi) security or insurance;

221 (vii) this chapter;

222 (viii) hazardous material as defined under 49 U.S.C. 5102;

223 (ix) livestock transportation; and

224 (x) safety.

225 (b) The ports-of-entry shall be located on state highways at sites determined by the



226 department.

227 (2) (a) The ports-of-entry shall be operated and maintained by the department.

228 (b) A port-of-entry agent or a peace officer may check, inspect, or test drivers, vehicles,  
229 and vehicle loads for compliance with state and federal laws specified in Subsection (1).

230 (3) (a) A port-of-entry agent or a peace officer, in whose presence an offense described  
231 in this section is committed, may:

232 (i) issue and deliver a misdemeanor or infraction citation under Section 77-7-18;

233 (ii) request and administer chemical tests to determine blood alcohol concentration in  
234 compliance with Section 41-6a-515;

235 (iii) place a driver out-of-service in accordance with Section 53-3-417; and

236 (iv) serve a driver with notice of the Driver License Division of the Department of  
237 Public Safety's intention to disqualify the driver's privilege to drive a commercial motor vehicle  
238 in accordance with Section 53-3-418.

239 (b) This section does not grant actual arrest powers as defined in Section 77-7-1 to a  
240 port-of-entry agent who is not a peace officer or special function officer designated under Title  
241 53, Chapter 13, Peace Officer Classifications.

242 (4) (a) A port-of-entry agent, a peace officer, or the Division of Wildlife Resources may  
243 inspect, detain, or quarantine a conveyance or equipment in accordance with Sections  
244 23-27-301 and 23-27-302.

245 (b) The department is not responsible for decontaminating a conveyance or equipment  
246 detained or quarantined.

247 (c) The Division of Wildlife Resources may decontaminate, as defined in Section  
248 23-27-102, a conveyance or equipment at the port-of-entry if authorized by the department.