

AQUATIC INVASIVE SPECIES

INTERDICTION ACT

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jon J. Greiner

House Sponsor: Stephen H. Urquhart

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ prohibits the possession, release, or transportation of a Dreissena mussel;
- ▶ prohibits the transporting of a conveyance or equipment that has been in an infested water without disinfecting the conveyance or equipment;
- ▶ requires a person who violates the chapter to reimburse the state's costs;
- ▶ establishes criminal penalties;
- ▶ authorizes the Division of Wildlife Resources to:
 - stop, detain, inspect, impound, or quarantine a vehicle or vessel that may contain a Dreissena mussel;
 - conduct an administrative checkpoint;
 - order a person to disinfect a vessel or vehicle; and
 - inspect, restrict access to, or close a water body, facility, or water supply system;
- ▶ prohibits the Division of Wildlife Resources from closing or quarantining a water supply system if a plan is implemented;
- ▶ 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 cooperate with the Division of Wildlife Resources
30 and implement a plan if infected with the Dreissena mussel;

31 ▶ requires a person to report the discovery of a Dreissena mussel to the Division of
32 Wildlife Resources;

33 ▶ authorizes the Wildlife Board to make rules;

34 ▶ authorizes the division, a peace officer, or a port-of-entry agent to stop a driver at a
35 port-of-entry to check for invasive aquatic wildlife species; and

36 ▶ requires a motor vehicle transporting a motorboat or sailboat of a certain weight to
37 stop at a port-of-entry.

38 **Monies Appropriated in this Bill:**

39 None

40 **Other Special Clauses:**

41 None

42 **Utah Code Sections Affected:**

43 AMENDS:

44 **72-9-501**, as last amended by Laws of Utah 2005, Chapter 2

45 **72-9-502**, as last amended by Laws of Utah 2005, Chapter 161

46 ENACTS:

47 **23-27-101**, Utah Code Annotated 1953

48 **23-27-102**, Utah Code Annotated 1953

49 **23-27-201**, Utah Code Annotated 1953

50 **23-27-202**, Utah Code Annotated 1953

51 **23-27-301**, Utah Code Annotated 1953

52 **23-27-302**, Utah Code Annotated 1953

53 **23-27-303**, Utah Code Annotated 1953

54 **23-27-401**, Utah Code Annotated 1953



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

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

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

Part 1. General Provisions

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23-27-101. Title.

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

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

23-27-102. Definitions.

As used in this chapter:

(1) "Board" means the Wildlife Board.

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

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

(3) "Director" means the director of the division.

(4) "Disinfect" means:

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

(b) chemically or thermally decontaminate in accordance with a board rule.

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

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

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

(a) water; or

(b) a Dreissena mussel.

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

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

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

(11) "Water body" means natural or impounded surface water, including a stream, river, spring, lake, reservoir, pond, wetland, tank, and fountain.

(12) (a) "Water supply system" means a system that treats, conveys, or distributes

90 water for irrigation, industrial, waste water treatment, or culinary use.

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

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

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

94 **Part 2. Invasive Species Prohibited**

95 **23-27-201. Invasive species prohibited.**

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

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

98 (b) release, place, plant, or cause to be released, placed, or planted a Dreissena mussel
99 in a water body; or

100 (c) transport a conveyance or equipment that has been in an infested water within the
101 previous 30 days without disinfecting the conveyance or equipment.

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

103 (a) is strictly liable;

104 (b) is guilty of an infraction; and

105 (c) shall reimburse the state for all costs associated with detaining, quarantining, and
106 disinfecting the conveyance or equipment.

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

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

110 **23-27-202. Reporting of invasive species required.**

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

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

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

116 **Part 3. Enforcement**

117 **23-27-301. Division's power to prevent invasive species infestation.**

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

119 (1) temporarily stop, detain, and inspect a conveyance or equipment that the division
120 reasonably believes is in violation of Section 23-27-201;

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

122 (3) stop and inspect a conveyance at a port-of-entry in accordance with Title 72,

123 Chapter 9, Part 5;

124 (4) detain and quarantine a conveyance or equipment as provided in Section

125 23-27-302;

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

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

128 (a) a water body;

129 (b) a facility; and

130 (c) a water supply system.

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

132 **23-27-302. Conveyance or equipment detainment or quarantine.**

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

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

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

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

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

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

142 (a) up to five days; or

143 (b) the period of time necessary to:

144 (i) disinfect the conveyance or equipment; and

145 (ii) ensure that a Dreissena mussel is not living on or in the conveyance or equipment.

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

147 **23-27-303. Closing a water body, facility, or water supply system.**

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

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

152 equipment;

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

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

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

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

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

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

165 (b) The notification shall include:

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

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

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

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

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

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

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

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

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

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

- 183 (C) method to disinfect the water supply system containing the Dreissena mussel;
- 184 (D) systematic monitoring program to determine a change in the infestation; and
- 185 (E) requirement to update or revise the plan in conformity with a scientific advance in
- 186 the method of controlling or eradicating a Dreissena mussel.

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

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

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

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

194 **Part 4. Administration**

195 **23-27-401. Rulemaking authority.**

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

198 (1) establish the procedures and requirements for disinfecting a conveyance or
 199 equipment to prevent the introduction and infestation of a Dreissena mussel;

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

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

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

205 (5) are necessary to administer and enforce the provisions of this chapter.

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

207 **72-9-501. Construction, operation, and maintenance of ports-of-entry by the**
 208 **department -- Function of ports-of-entry -- Checking and citation powers of port-of-entry**
 209 **agents.**

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

213 (i) driver qualifications;

- 214 (ii) Title 53, Chapter 3, Part 4, Uniform Commercial Driver License Act;
- 215 (iii) vehicle registration;
- 216 (iv) fuel tax payment;
- 217 (v) vehicle size, weight, and load;
- 218 (vi) security or insurance;
- 219 (vii) this chapter;
- 220 (viii) hazardous material as defined under 49 U.S.C. 5102;
- 221 (ix) livestock transportation; [~~and~~]
- 222 (x) safety[-]; and
- 223 (xi) importation and movement of invasive aquatic wildlife species.
- 224 (b) The ports-of-entry shall be located on state highways at sites determined by the
- 225 department.
- 226 (2) (a) The ports-of-entry shall be operated and maintained by the department.
- 227 (b) A port-of-entry agent may check, inspect, or test drivers, vehicles, and vehicle loads
- 228 for compliance with state and federal laws specified in Subsection (1).
- 229 (3) (a) A port-of-entry agent, in whose presence an offense described in this section is
- 230 committed, may:
- 231 (i) issue and deliver a misdemeanor or infraction citation under Section 77-7-18;
- 232 (ii) request and administer chemical tests to determine blood alcohol concentration in
- 233 compliance with Section 41-6a-515;
- 234 (iii) place a driver out-of-service in accordance with Section 53-3-417; [~~and~~]
- 235 (iv) serve a driver with notice of the Driver License Division of the Department of
- 236 Public Safety's intention to disqualify the driver's privilege to drive a commercial motor vehicle
- 237 in accordance with Section 53-3-418[-]; and
- 238 (v) impound and quarantine a conveyance or equipment in accordance with Section
- 239 23-27-302.
- 240 (b) This section does not grant actual arrest powers as defined in Section 77-7-1 to a
- 241 port-of-entry agent who is not a peace officer or special function officer designated under Title
- 242 53, Chapter 13, Peace Officer Classifications.
- 243 Section 10. Section **72-9-502** is amended to read:
- 244 **72-9-502. Motor vehicles to stop at ports-of-entry -- Signs -- Exceptions --**

245 **Rulemaking -- By-pass permits.**

246 (1) Except under Subsection (3), the following shall stop at a port-of-entry as required
247 by this section:

248 (a) a motor carrier operating a motor vehicle with a gross vehicle weight of 10,001
249 pounds or more [~~or any~~];

250 (b) a motor vehicle carrying livestock as defined in Section 4-24-2 [~~shall stop at a~~
251 ~~port-of-entry as required under this section.~~]; and

252 (c) a motor vehicle transporting a motorboat or sailboat, as defined in Section 73-18-2,
253 that exceeds 500 pounds in gross weight.

254 (2) The department may erect and maintain signs directing motor vehicles to a
255 port-of-entry as provided in this section.

256 (3) A motor vehicle required to stop at a port-of-entry under Subsection (1) is exempt
257 from this section if:

258 (a) the total one-way trip distance for the motor vehicle would be increased by more
259 than 5% or three miles, whichever is greater if diverted to a port-of-entry; or

260 (b) the motor vehicle is operating under a temporary port-of-entry by-pass permit
261 issued under Subsection (4).

262 (4) (a) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
263 the department shall make rules for the issuance of a temporary port-of-entry by-pass permit
264 exempting a motor vehicle from the provisions of Subsection (1) if the department determines
265 that the permit is needed to accommodate highway transportation needs due to multiple daily or
266 weekly trips in the proximity of a port-of-entry.

267 (b) The rules under Subsection (4)(a) shall provide that one permit may be issued to a
268 motor carrier for multiple motor vehicles.

Legislative Review Note
as of 2-13-08 4:09 PM

Office of Legislative Research and General Counsel

S.B. 238 - Aquatic Invasive Species Interdiction Act

Fiscal Note

2008 General Session
State of Utah

State Impact

Enactment of this bill will require an ongoing General Fund appropriation of \$168,000 to the Division of Wildlife Resources and of \$126,400 to the Department of Transportation for additional staff. Further, as a result of this bill, the Department of Transportation may have to upgrade and expand one or more ports of entry, the costs of which could be significant.

	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2009</u> <u>Approp.</u>	<u>FY 2010</u> <u>Approp.</u>	<u>FY 2008</u> <u>Revenue</u>	<u>FY 2009</u> <u>Revenue</u>	<u>FY 2010</u> <u>Revenue</u>
General Fund	\$0	\$294,400	\$294,400	\$0	\$0	\$0
Total	\$0	\$294,400	\$294,400	\$0	\$0	\$0

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.