

HOUSE BILL NO. 152

INTRODUCED BY . DURAM

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING DRAIN PLUGS TO BE DISENGAGED AFTER VESSELS, EQUIPMENT, OR OTHER ITEMS ARE USED IN BODIES OF WATER INSIDE AQUATIC INVASIVE SPECIES MANAGEMENT AREAS; DEFINING "DRAIN PLUG"; ESTABLISHING THAT FAILING TO DISENGAGE A DRAIN PLUG IS NOT A PRIMARY OFFENSE; AMENDING SECTIONS 80-7-1003, 80-7-1010, 80-7-1015, AND 80-7-1019, MCA; AND PROVIDING AN APPLICABILITY DATE."

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

Section 1. Section 80-7-1003, MCA, is amended to read:

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

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

(2) "Drain plug" means a valve or device used to control the drainage of water from a compartment designed to hold water, such as a bilge, livewell, or ballast tank. The term does not include a permanently sealed device, like those used to prevent water from filling a pontoon, unless the compartment the device is permanently sealed to is compromised and contains water.

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

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

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

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

(6)(7) "Tributaries to the Columbia River" means all water bodies in Montana from which water drains into the Columbia River.

(7)(8) "Vessel" has the meaning provided in 61-1-101."

Section 2. Section 80-7-1010, MCA, is amended to read:

"80-7-1010. Invasive species management area -- regulation. (1) The owner, operator, or person in possession of any vessel or equipment authorized for use in an invasive species management area shall comply with any regulations imposed pursuant to 80-7-1008(3)(b) and provide proof of compliance upon request of a department or its designee.

(2) After use in a body of water within an invasive species management area, all vessels, equipment, bait containers, livewells, bilges, and other boating-related equipment, excluding marine sanitary systems, must be drained in a way that does not impact any state waters and the drain plug left disengaged before leaving the boat launch or parking area and being transported on land or a public highway, as defined in 61-1-101, except where allowed by the department of fish, wildlife, and parks. If a drain plug does not exist or a drain plug cannot be disengaged to comply with this subsection, reasonable measures must be taken to dry or drain all compartments or spaces that hold water."

Section 3. Section 80-7-1015, MCA, is amended to read:

"80-7-1015. Statewide invasive species management area. (1) There is established a statewide invasive species management area for the purpose of preventing the introduction, importation, and infestation of invasive species through the mandatory inspection of vessels and equipment entering the state and, except as provided in 80-7-1030, the mandatory decontamination of any vessel or equipment on or in which an invasive species is detected.

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

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

(4) At a check station established pursuant to this section, the departments may examine vessels and equipment for the presence of an invasive species and compliance with this section and rules adopted pursuant to 80-7-1007. Except as provided in 80-7-1030, examination of any interior portion of a vessel or equipment that may contain water, including bilges, livewells, and bait containers, for compliance may occur only if inspection of interior portions is included as part of quarantine measures established pursuant to rules adopted under 80-7-1007.

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

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

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

(6) Except as provided in 80-7-1030, if during an inspection of a vessel or equipment the presence of an invasive species is detected, that vessel or equipment may not leave the check station without authorization until it is cleaned and decontaminated in a manner established in accordance with rules adopted pursuant to 80-7-1007. Every effort must be made to ensure decontamination of the vessel or equipment as expeditiously as possible.

(7) After use in a body of water within the statewide invasive species management area, all vessels, equipment, bait containers, livewells, bilges, and other boating-related equipment, excluding marine sanitary systems, must be drained in a way that does not impact any state waters and the drain plug left disengaged before leaving the boat launch or parking area and being transported on land or on a public highway, as defined in 61-1-101, except when allowed by the department of fish, wildlife, and parks. If a drain plug does not exist or a drain plug cannot be disengaged to comply with this subsection, reasonable measures must be taken to dry or drain all compartments or spaces that hold water."

Section 4. Section 80-7-1019, MCA, is amended to read:

"80-7-1019. Enforcement. (1) Except as provided in subsection (2), a peace officer, as defined in 45-2-101, may:

(1)(a) stop the driver of a vehicle transporting a vessel or equipment on receiving a complaint or observing that the driver failed to stop at a check station as required under this part;

(2)(b) upon particularized suspicion that a vessel or equipment is infested with an invasive species, require the driver of a vehicle transporting a vessel or equipment to submit the vessel or equipment to an inspection. The peace officer may conduct mandatory inspections of any interior portion of a vessel or equipment that may contain water for compliance with this part and rules adopted under this part only if:

~~(a)~~(i) the peace officer obtains a search warrant, as defined in 46-1-202; or

(b)(ii) the vessel or equipment is physically located within the boundaries of an invasive species management area established under 80-7-1008 or the statewide invasive species management area established in 80-7-1015 and use of mandatory inspections has been included in quarantine measures established pursuant to 80-7-1008(3)(b)(i) or rules adopted under 80-7-1007.

~~(3)(c)~~ cite a person for a violation of this part.

(2) A peace officer may not require a driver who may be in violation of the requirements of 80-7-1010(2) and 80-7-1015(7) to travel with a disengaged drain plug to stop except on reasonable cause to believe:

(a) that the driver violated a traffic regulation or another provision of this part; or

(b) that the driver's vehicle is unsafe or not equipped as required by law."

NEW SECTION. **Section 5. Applicability.** [This act] applies to violations charged on or after [the effective date of this act].

- END -