

456A.37 Aquatic invasive species — prevention and control.1. *Definitions.* As used in this section:

a. “*Aquatic invasive species*” means nonnative wildlife or plant species that have been determined by the department to pose a significant threat to the aquatic resources or water infrastructure of the state.

b. “*Aquatic plant*” means a submergent, emergent, floating, or floating-leaved plant, including algae, and includes any part of such a plant.

c. “*Bait*” means the same as defined in section 481A.1.

d. “*Water-related equipment*” means a motor vehicle, boat, watercraft, dock, boat lift, raft, vessel, trailer, tool, implement, device, or any other associated equipment or container, including but not limited to portable bait containers, live wells, ballast tanks, bilge areas, and water-hauling equipment that is capable of containing or transporting aquatic invasive species, aquatic plants, or water.

2. *Rulemaking.* The commission shall adopt rules pursuant to chapter 17A for the implementation and administration of this section. The rules shall do all of the following:

a. Restrict the introduction, propagation, use, possession, and spread of aquatic invasive species.

b. Identify waters of the state with infestations of aquatic invasive species. The commission shall require that such waters be posted as infested.

c. If the commission determines that an additional species should be defined as an “*aquatic invasive species*”, the species shall be defined by the commission by rule as an “*aquatic invasive species*”.

3. *Prohibitions.*

a. A person shall not transport on a public road, or place or attempt to place into waters of the state, any water-related equipment that has an aquatic invasive species or aquatic plant attached to or within the water-related equipment except as follows:

(1) When authorized by a written permit issued by the director upon a finding that the person is unable to comply with the requirements of this lettered paragraph “a”, is substantially impacted by the prohibitions of this lettered paragraph “a”, and is affording adequate protection of the aquatic resources or water infrastructure of the state by an alternative means.

(2) When the department, or other governmental entity approved by the director, is undertaking management activities that would constitute prohibited activities under this lettered paragraph “a” but are necessary to manage the aquatic resources or water infrastructure of the state, including but not limited to aquatic invasive species control, and sufficient mitigation efforts are undertaken to avoid or minimize, to the greatest extent possible, exposure of the waters of the state to an aquatic invasive species.

(3) When disposing of or engaging in a control activity of an aquatic invasive species and exposure to other waters of the state is minimized.

(4) When transporting commercial or municipal aquatic plant harvesting equipment to a suitable location away from any waters of the state, for purposes of cleaning the equipment of any remaining aquatic plants or wildlife.

(5) When water-related equipment is legally purchased or traded by or from a commercial source.

(6) For purposes of constructing or transporting a shooting or observation blind, provided that there are no aquatic invasive species present on or in the blind, and the aquatic plants used on or in the blind are emergent, cut above the waterline, and contain no propagules such as seed heads, roots, or rhizomes.

(7) For purposes of submitting a sample to the department or to another entity as directed by the department, provided that the sample is in a sealed container. Any test results of such samples shall be reported to the department.

(8) When engaged in emergency response activities, provided that the person engaged in such activities is affiliated with a law enforcement agency or an agency with emergency response authority.

(9) When otherwise permitted under a disaster declaration issued consistent with chapter 29C.

b. A person shall drain all water from water-related equipment when leaving the waters of the state and before transporting the water-related equipment off a water access area or riparian property. Drain plugs, bailers, valves, or other devices used to control the drainage of water from ballast tanks, bilges, and live wells shall be removed or opened while transporting water-related equipment except as follows:

(1) When authorized by a written permit issued by the director upon a finding that the person is unable to comply with the requirements of this lettered paragraph “b”, is substantially impacted by the prohibitions of this lettered paragraph “b”, and is affording adequate protection of the aquatic resources or water infrastructure of the state by an alternative means.

(2) When the department, or other governmental entity approved by the director, is undertaking management activities that would constitute prohibited activities under this lettered paragraph “b” but are necessary to manage the aquatic resources or water infrastructure of the state, including but not limited to aquatic invasive species control, and sufficient mitigation efforts are undertaken to avoid or minimize, to the greatest extent possible, exposure of the waters of the state to an aquatic invasive species.

(3) When water-related equipment constitutes a marine sanitary system, a closed engine cooling system, or is a tank or container of potable drinking water or other beverage intended for human consumption.

(4) When engaged in emergency response activities, provided that the person engaged in such activities is affiliated with a law enforcement agency or an agency with emergency response authority.

(5) When otherwise permitted under a disaster declaration issued consistent with chapter 29C.

c. A person who violates this subsection is subject to a scheduled fine pursuant to section 805.8B, subsection 5.

4. *Inspections.* Persons operating and transporting water-related equipment shall inspect the equipment for aquatic invasive species when the equipment is removed from, or before entering waters of the state. If an aquatic invasive species is present on or within the water-related equipment, the aquatic invasive species shall be removed immediately. Any water-related equipment is subject to inspection by a representative of the department. A representative of the department may prohibit a person from placing or operating water-related equipment in waters of the state if the person refuses to allow an inspection of the water-related equipment or refuses to remove and dispose of aquatic invasive species, aquatic plants, or water on or within the water-related equipment.

96 Acts, ch 1042, §1; 2001 Acts, ch 137, §5; 2004 Acts, ch 1137, §1; 2005 Acts, ch 137, §2, 3; 2005 Acts, ch 179, §70, 71; 2013 Acts, ch 67, §1

Referred to in §805.8B(5, 5a, 5b, 5c)

[T] Section stricken and rewritten