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FIRST REPRINT

A.B. 167

ASSEMBLY BILL NO. 167—ASSEMBLYMEN BUSTAMANTE
ADAMS, BOBZIEN; GOICOECHEA, GRADY AND HARDY

FEBRUARY 16, 2011

JOINT SPONSORS: SENATORS LEE; AND MANENDO

Referred to Committee on Natural Resources,
Agriculture, and Mining

SUMMARY—Enacts provisions for the protection of the waters of this State from aquatic invasive species. (BDR 45-847)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets [omitted material] is material to be omitted.

AN ACT relating to aquatic species; prohibiting a person from introducing certain aquatic species into the waters of this State; providing for the inspection of vessels for aquatic invasive species; requiring vessels to be inspected for the presence of aquatic invasive species before being operated on the waters of this State; requiring decontamination of any vessels where an aquatic invasive species is present; authorizing the impoundment or quarantine of certain vessels; requiring an aquatic invasive species fee to be paid by all operators of vessels; providing a civil penalty; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 Existing law makes it a misdemeanor for any person to introduce any aquatic
- 2 life into this State without the permission of the Department of Wildlife. Existing
- 3 law also authorizes the Board of Wildlife Commissioners to prohibit the
- 4 importation, transportation or possession of any species of wildlife that the
- 5 Commission deems detrimental to the wildlife or the habitat of the wildlife in this
- 6 State. (NRS 503.597) **Section 2** of this bill makes it a misdemeanor for a first



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7 offense and a category E felony for any subsequent offense to knowingly or
8 intentionally introduce any aquatic species which may be detrimental to the aquatic
9 resources, aquatic species or water resources of this State. **Section 2** also provides
10 for an additional civil penalty of not less than \$25,000 and not more than \$250,000
11 for anyone convicted of such introduction.

12 **Section 4** of this bill authorizes the Department to set up inspection stations for
13 vessels operating on the waters of this State to inspect such vessels for aquatic
14 invasive species and prohibits any person from operating a vessel without first
15 complying with the inspection program. **Section 4** also prohibits any person
16 operating a vessel from leaving an impaired body of water and entering another
17 body of water in this State without first having the vessel decontaminated. In
18 addition, **section 4** allows a peace officer to inspect a vessel at any point if the
19 peace officer has a reasonable belief based on articulable facts that an aquatic
20 invasive species may be present on the vessel. Finally, if a person refuses to comply
21 with a peace officer or the requirements of an inspection station, **section 4** allows
22 the person's vessel to be impounded or quarantined. **Section 5** of this bill
23 authorizes a peace officer to keep a vessel in impound or quarantine until it has
24 been decontaminated or shown to be in compliance with the requirements of the
25 Department.

26 **Section 6** of this bill requires the Commission to establish an annual aquatic
27 invasive species fee, which must not exceed \$10, and requires the Department to
28 issue an aquatic invasive species decal as evidence of payment. **Section 6** prohibits
29 any person from operating a vessel on the waters of this State without first paying
30 the fee and attaching the decal to his or her vessel as proof of payment.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 501.356 is hereby amended to read as follows:
2 501.356 1. Money received by the Department from:

- 3 (a) The sale of licenses;
4 (b) Fees pursuant to the provisions of NRS 488.075 and
5 488.1795;
6 (c) Remittances from the State Treasurer pursuant to the
7 provisions of NRS 365.535;
8 (d) Appropriations made by the Legislature; and
9 (e) All other sources, except money derived from the forfeiture
10 of any property described in NRS 501.3857 or money deposited in
11 the Wildlife Heritage Trust Account pursuant to NRS 501.3575 or in
12 the Trout Management Account pursuant to NRS 502.327,
13 ➤ must be deposited with the State Treasurer for credit to the
14 Wildlife Account in the State General Fund.

15 2. The interest and income earned on the money in the Wildlife
16 Account, after deducting any applicable charges, must be credited to
17 the Account.

18 3. Except as otherwise provided in subsection 4 **§** and **NRS**
19 **503.597**, the Department may use money in the Wildlife Account
20 only to carry out the provisions of this title and chapter 488 of NRS



1 and as provided in NRS 365.535, and the money must not be
2 diverted to any other use.

3 4. Except as otherwise provided in NRS 502.250 and 504.155,
4 all fees for the sale or issuance of stamps, tags, permits and licenses
5 that are required to be deposited in the Wildlife Account pursuant to
6 the provisions of this title and any matching money received by the
7 Department from any source must be accounted for separately and
8 must be used:

9 (a) Only for the management of wildlife; and

10 (b) If the fee is for the sale or issuance of a license, permit or tag
11 other than a tag specified in subsection 5 or 6 of NRS 502.250,
12 under the guidance of the Commission pursuant to subsection 2 of
13 NRS 501.181.

14 **Sec. 2.** NRS 503.597 is hereby amended to read as follows:

15 503.597 1. Except as otherwise provided in this section, it is
16 unlawful, except by the written consent and approval of the
17 Department, for any person at anytime to receive, bring or have
18 brought or shipped into this State, or remove from one stream or
19 body of water in this State to any other, or from one portion of the
20 State to any other, or to any other state, any aquatic life or wildlife,
21 or any spawn, eggs or young of any of them.

22 2. The Department shall require an applicant to conduct an
23 investigation to confirm that such an introduction or removal will
24 not be detrimental to the wildlife or the habitat of wildlife in this
25 State. Written consent and approval of the Department may be given
26 only if the results of the investigation prove that the introduction,
27 removal or importation will not be detrimental to existing aquatic
28 life or wildlife, or any spawn, eggs or young of any of them.

29 3. The Commission may through appropriate regulation
30 provide for the inspection of such introduced or removed creatures
31 and the inspection fees therefor.

32 4. The Commission may adopt regulations to prohibit the
33 importation, transportation or possession of any species of wildlife
34 which the Commission deems to be detrimental to the wildlife or the
35 habitat of the wildlife in this State.

36 5. *A person who knowingly or intentionally introduces,*
37 *causes to be introduced or attempts to introduce an aquatic*
38 *invasive species or injurious aquatic species into any waters of this*
39 *State is guilty of:*

40 (a) *For a first offense, a misdemeanor; and*

41 (b) *For any subsequent offense, a category E felony and shall*
42 *be punished as provided in NRS 193.130.*

43 6. *A court before whom a defendant is convicted of a*
44 *violation of subsection 5 shall, for each violation, order the*
45 *defendant to pay a civil penalty of at least \$25,000 but not more*



1 *than \$250,000. The money must be deposited into the Wildlife*
2 *Account in the State General Fund and used to:*

3 (a) *Remove the aquatic invasive species or injurious aquatic*
4 *species;*

5 (b) *Reintroduce any game fish or other aquatic wildlife*
6 *destroyed by the aquatic invasive species or injurious aquatic*
7 *species;*

8 (c) *Restore any habitat destroyed by the aquatic invasive*
9 *species or injurious aquatic species;*

10 (d) *Repair any other damage done to the waters of this State by*
11 *the introduction of the aquatic invasive species or injurious*
12 *aquatic species; and*

13 (e) *Defray any other costs incurred by the Department because*
14 *of the introduction of the aquatic invasive species or injurious*
15 *aquatic species.*

16 7. The provisions of this section do not apply to **[alternative]** :

17 (a) *Alternative* livestock and products made therefrom **[]** ; or

18 (b) *The introduction of any species by the Department for*
19 *sport fishing or other wildlife management programs.*

20 8. *As used in this section:*

21 (a) *“Aquatic invasive species” means an aquatic species which*
22 *is exotic or not native to this State and which the Commission has*
23 *determined to be detrimental to aquatic life, water resources or*
24 *infrastructure for providing water in this State.*

25 (b) *“Injurious aquatic species” means an aquatic species*
26 *which the Commission has determined to be a threat to sensitive,*
27 *threatened or endangered aquatic species or game fish or to the*
28 *habitat of sensitive, threatened or endangered aquatic species or*
29 *game fish by any means, including, without limitation:*

30 (1) *Predation;*

31 (2) *Parasitism;*

32 (3) *Interbreeding; or*

33 (4) *The transmission of disease.*

34 **Sec. 3.** Chapter 488 of NRS is hereby amended by adding
35 thereto the provisions set forth as sections 4, 5 and 6 of this act.

36 **Sec. 4. 1.** *It is unlawful for any person at any time to:*

37 (a) *Launch a vessel into any body of water in this State for*
38 *which the Department has approved an inspection program*
39 *without first complying with that program;*

40 (b) *Refuse to comply with any requirements of the Department*
41 *or any requirements of an inspection program approved by the*
42 *Department; or*

43 (c) *Leave an impaired body of water in this State or any other*
44 *state after operating a vessel on that impaired body of water and*
45 *launch the vessel on any other body of water in this State without*



1 *first decontaminating the vessel and any conveyance used on the*
2 *impaired body of water.*

3 2. *In addition to any inspection conducted pursuant to NRS*
4 *488.900, each owner, operator or person in control of a vessel or*
5 *conveyance shall stop at any mandatory inspection station for*
6 *aquatic invasive species authorized by the Department. If a peace*
7 *officer reasonably believes, based on articulable facts, that an*
8 *aquatic invasive species or aquatic plant material may be present*
9 *on the vessel or conveyance, the peace officer may:*

10 (a) *Require the owner, operator or person in control of the*
11 *vessel or conveyance to decontaminate the vessel or conveyance;*
12 *or*

13 (b) *In addition to any seizure required pursuant to NRS*
14 *488.910, impound or quarantine the vessel or conveyance.*

15 3. *A peace officer may stop and inspect a vessel or*
16 *conveyance for the presence of aquatic invasive species or aquatic*
17 *plant material, or for proof of a required inspection:*

18 (a) *Before a vessel is launched into a body of water in this*
19 *State;*

20 (b) *Before a vessel or conveyance departs from a body of water*
21 *in this State, a launch ramp or a vessel staging area;*

22 (c) *If the vessel or conveyance is visibly transporting any*
23 *aquatic invasive species or aquatic plant material; or*

24 (d) *If the peace officer reasonably believes, based on*
25 *articulable facts, that an aquatic invasive species or aquatic plant*
26 *material is present.*

27 4. *If a peace officer conducts an inspection of a vessel or*
28 *conveyance pursuant to this section and determines that an*
29 *aquatic invasive species or aquatic plant material is present on the*
30 *vessel or conveyance, the peace officer may order the vessel or*
31 *conveyance to be decontaminated.*

32 5. *A peace officer may impound or quarantine a vessel if:*

33 (a) *An inspection conducted pursuant to this section indicates*
34 *the presence of an aquatic invasive species or aquatic plant*
35 *material on the vessel or conveyance; or*

36 (b) *The owner, operator or person in control of the vessel or*
37 *conveyance refuses to:*

38 (1) *Submit to an inspection authorized pursuant to this*
39 *section; or*

40 (2) *Comply with an order issued pursuant to this section to*
41 *decontaminate his or her vessel or conveyance.*

42 6. *As used in this section, "impaired body of water" means*
43 *any body of water in this State or any other state which the*
44 *Commission or another governmental entity has identified as*
45 *containing an aquatic invasive species.*



1 **Sec. 5. 1.** *If a peace officer orders a vessel or conveyance to*
2 *be impounded or quarantined pursuant to section 4 of this act, the*
3 *vessel or conveyance may be impounded or quarantined for a*
4 *reasonable period to ensure that the vessel or conveyance is*
5 *inspected and decontaminated and that any aquatic invasive*
6 *species or aquatic plant material is completely removed.*

7 **2.** *The owner of a vessel or conveyance which is impounded*
8 *or quarantined is responsible for all costs associated with the*
9 *impoundment or quarantine.*

10 **3.** *The Department may suspend the certificate of number or*
11 *validation decal of an impounded or quarantined vessel until:*

12 *(a) The operator or owner of the vessel has completed the*
13 *decontamination of the vessel; and*

14 *(b) The Department has inspected the vessel and determined*
15 *that it is in compliance with section 4 of this act.*

16 **Sec. 6. 1.** *A person shall not operate a vessel on the waters*
17 *of this State unless the person has:*

18 *(a) Paid to the Department the aquatic invasive species fee*
19 *established pursuant to subsection 4; and*

20 *(b) Attached the aquatic invasive species decal issued pursuant*
21 *to subsection 2 to the port side transom of the vessel so that the*
22 *decal is distinctly visible.*

23 **2.** *The Department shall issue to a person who pays the fee*
24 *established pursuant to subsection 4 an aquatic invasive species*
25 *decal as evidence of the payment of the aquatic invasive species*
26 *fee.*

27 **3.** *Aquatic invasive species decals expire at the end of each*
28 *calendar year. Only the decal for the current year may be*
29 *displayed on a vessel.*

30 **4.** *The Commission shall establish by regulation an aquatic*
31 *invasive species fee, which must not exceed \$10, to be paid*
32 *annually for the issuance of an aquatic invasive species decal. The*
33 *fee must be deposited in the Wildlife Account in the State General*
34 *Fund and used by the Department for enforcement of this section,*
35 *NRS 503.597 and sections 4 and 5 of this act and for education*
36 *about and management of aquatic invasive species.*

37 **Sec. 7.** NRS 488.035 is hereby amended to read as follows:

38 488.035 As used in this chapter, unless the context otherwise
39 requires:

40 **1.** *“Aquatic invasive species” means an aquatic species which*
41 *is exotic or not native to this State and which the Commission has*
42 *determined to be detrimental to aquatic life, water resources or*
43 *infrastructure for providing water in this State.*

44 **2.** *“Aquatic plant material” means aquatic plants or parts of*
45 *plants that are dependent on an aquatic environment to survive.*



- 1 **3.** “Commission” means the Board of Wildlife Commissioners.
2 ~~{2}~~ **4.** *“Conveyance” means a motor vehicle, trailer or any*
3 *other equipment used to transport a vessel or containers or devices*
4 *used to haul water on a vessel that may contain or carry an*
5 *aquatic invasive species or aquatic plant material.*
6 **5.** *“Decontaminate” means eliminate any aquatic invasive*
7 *species on a vessel or conveyance in a manner specified by the*
8 *Commission which may include, without limitation, washing the*
9 *vessel or conveyance, draining the water in the vessel or*
10 *conveyance, drying the vessel or conveyance or chemically,*
11 *thermally or otherwise treating the vessel or conveyance.*
12 **6.** “Department” means the Department of Wildlife.
13 ~~{3}~~ **7.** “Flat wake” means the condition of the water close
14 astern a moving vessel that results in a flat wave disturbance.
15 ~~{4}~~ **8.** “Interstate waters of this State” means waters forming
16 the boundary between the State of Nevada and an adjoining state.
17 ~~{5}~~ **9.** “Legal owner” means a secured party under a security
18 agreement relating to a vessel or a renter or lessor of a vessel to the
19 State or any political subdivision of the State under a lease or an
20 agreement to lease and sell or to rent and purchase which grants
21 possession of the vessel to the lessee for a period of 30 consecutive
22 days or more.
23 ~~{6}~~ **10.** “Motorboat” means any vessel propelled by
24 machinery, whether or not the machinery is the principal source of
25 propulsion.
26 ~~{7}~~ **11.** “Operate” means to navigate or otherwise use a
27 motorboat or a vessel.
28 ~~{8}~~ **12.** “Owner” means:
29 (a) A person having all the incidents of ownership, including the
30 legal title of a vessel, whether or not he or she lends, rents or
31 pledges the vessel; and
32 (b) A debtor under a security agreement relating to a vessel.
33 ↳ “Owner” does not include a person defined as a “legal owner”
34 under subsection ~~{5}~~ **9.**
35 ~~{9}~~ **13.** “Prohibited substance” has the meaning ascribed to it
36 in NRS 484C.080.
37 ~~{10}~~ **14.** “Registered owner” means the person registered by
38 the Commission as the owner of a vessel.
39 ~~{11}~~ **15.** A vessel is “under way” if it is adrift, making way or
40 being propelled, and is not aground, made fast to the shore, or tied
41 or made fast to a dock or mooring.
42 ~~{12}~~ **16.** “Vessel” means every description of watercraft, other
43 than a seaplane on the water, used or capable of being used as a
44 means of transportation on water.



1 ~~13.1~~ 17. "Waters of this State" means any waters within the
2 territorial limits of this State.

3 **Sec. 8.** NRS 488.075 is hereby amended to read as follows:

4 488.075 1. The owner of each motorboat requiring
5 numbering by this State shall file an application for a number and
6 for a certificate of ownership with the Department on forms
7 approved by it accompanied by:

8 (a) Proof of payment of Nevada sales or use tax as evidenced by
9 proof of sale by a Nevada dealer or by a certificate of use tax paid
10 issued by the Department of Taxation, or by proof of exemption
11 from those taxes as provided in NRS 372.320.

12 (b) Such evidence of ownership as the Department may require.
13 ↪ The Department shall not issue a number, a certificate of number
14 or a certificate of ownership until this evidence is presented to it.

15 2. The application must be signed by the owner of the
16 motorboat and must be accompanied by a fee of \$20 for the
17 certificate of ownership and a fee according to the following
18 schedule as determined by the straight line length which is measured
19 from the tip of the bow to the back of the transom of the motorboat:

20		
21	Less than 13 feet.....	\$20
22	13 feet or more but less than 18 feet	25
23	18 feet or more but less than 22 feet	40
24	22 feet or more but less than 26 feet	55
25	26 feet or more but less than 31 feet	75
26	31 feet or more	100
27		

28 Except as otherwise provided in this subsection, all fees received by
29 the Department under the provisions of this chapter must be
30 deposited in the Wildlife Account in the State General Fund and ,
31 *except as otherwise provided in section 6 of this act*, may be
32 expended only for the administration and enforcement of the
33 provisions of this chapter. On or before December 31 of each year,
34 the Department shall deposit with the respective county school
35 districts 50 percent of each fee collected according to the
36 motorboat's length for every motorboat registered from their
37 respective counties. Upon receipt of the application in approved
38 form, the Department shall enter the application upon the records of
39 its office and issue to the applicant a certificate of number stating
40 the number awarded to the motorboat, a certificate of ownership
41 stating the same information and the name and address of the
42 registered owner and the legal owner.

43 3. A certificate of number may be renewed each year by the
44 purchase of a validation decal. The fee for a validation decal is
45 determined by the straight line length of the motorboat and



1 is equivalent to the fee set forth in the schedule provided in
2 subsection 2. The amount of the fee for issuing a duplicate
3 validation decal is \$20.

4 4. The owner shall paint on or attach to each side of the bow of
5 the motorboat the identification number in such manner as may be
6 prescribed by regulations of the Commission in order that the
7 number may be clearly visible. The number must be maintained in
8 legible condition.

9 5. The certificate of number must be available at all times for
10 inspection on the motorboat for which issued, whenever the
11 motorboat is in operation.

12 6. The Commission shall provide by regulation for the issuance
13 of numbers to manufacturers and dealers which may be used
14 interchangeably upon motorboats operated by the manufacturers and
15 dealers in connection with the demonstration, sale or exchange of
16 those motorboats. The amount of the fee for each such a number is
17 \$20.

18 **Sec. 9.** 1. This section becomes effective upon passage and
19 approval.

20 2. Sections 1 and 2 of this act become effective on July 1,
21 2011.

22 3. Sections 3 to 8, inclusive, of this act become effective:

23 (a) Upon passage and approval for the purpose of adopting
24 regulations and performing any other preparatory administrative
25 tasks that are necessary to carry out the provisions of this act; and

26 (b) On January 1, 2012 for all other purposes.

