

Initiative Measure No. 1665

Filed February 15, 2019

BILL REQUEST - CODE REVISER'S OFFICE

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BRIEF DESCRIPTION:

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AN ACT Relating to invasive species; amending RCW 79A.25.310, 79A.25.320, 79A.25.330, 79A.25.340, 79A.25.350, 79A.25.360, and 79A.25.370; adding a new chapter to Title 15 RCW; recodifying RCW 79A.25.310, 79A.25.320, 79A.25.330, 79A.25.340, 79A.25.350, 79A.25.360, and 79A.25.370; and providing an expiration date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec. 1.** (1) The purpose of this chapter is to provide more tools to the Washington invasive species council in its vision statement to sustain Washington's human, plant, and animal communities and our thriving economy by preventing the introduction and spread of harmful invasive species.

(a) This chapter seeks to expand the Washington invasive species council's powers from education and awareness to practical regulation of invasive species in order to reinforce its attempts to prevent invasive species from entering the state.

(b) Washington state and the Pacific Northwest at large have a unique ecology that warrants careful protection from invasive species that may potentially disrupt the environment.

(c) The Washington invasive species council has found that invasive species pose an environmental, economic, and human health threat for Washington residents.

(d) The Washington invasive species council has determined that current management efforts focus on control, eradication, and general outreach, but do not sufficiently target pathways of introduction and spread. The Washington invasive species council has found that there is a lack of funding and associated programs to manage invasive mammals and the marine alga, *Caulerpa*, demonstrating a need for directing resources toward terrestrial and aquatic invasive species control.

(e) The purpose of this chapter is to increase the ability of the Washington invasive species council to regulate invasive species at Washington state borders and ports of entry.

(2) The intent of this chapter is to broaden the power and scope of the Washington invasive species council.

(3) Biosecurity control and regulation already exist under the authority of the department of agriculture. By moving the Washington invasive species council into the department of agriculture, and changing its name to the Washington invasive species authority, the new authority will be better equipped to handle ecological threats from invasive species.

(4) Successful interagency biosecurity plans exist in other countries and states within the United States.

(5) Giving the new Washington invasive species authority greater authority in biosecurity and invasive species policy making, agency influence, and resource management would lead to greater ecological focus in our state legislature.

NEW SECTION. **Sec. 2.** (1) There is created the Washington invasive species authority to exist until June 30, 2030. Staff support to the Washington invasive species authority must be provided by the department of agriculture and from the agencies represented on the authority.

(2) The Washington invasive species authority has the following powers and duties:

(a) Maintain a broad overview of the invasive species problem in the state;

(b) Advise, consult, and coordinate invasive species-related efforts with and between the departments of agriculture, natural resources, health, and transportation, as well as state, federal, international, and privately organized programs and policies;

(c) Identify and prioritize each lead agency's organizational and resource shortfalls with respect to invasive species;

(d) After consulting with appropriate state agencies, create and implement a plan that includes the prevention, early detection, rapid response, control, enforcement, and education of the public with respect to invasive species, as well as fashion a mission statement articulating the state's position against invasive species. However, the appropriate state agencies shall collaborate with the counties and communities to develop and implement a systematic approach to reduce and control infestations on public lands that are near or adjacent to communities and must provide annual reports on the progress made in achieving this objective;

(e) Coordinate and promote the state's position with respect to federal issues, including:

(i) Quarantine preemption;

(ii) International trade agreements that ignore the problem of invasive species in Washington;

(iii) Whether quarantine of domestic pests arriving from other states should be provided by the federal government;

(iv) Coordinating efforts with federal agencies to maximize resources and reduce or eliminate system gaps and leaks, including deputizing the United States department of agriculture's plant protection and quarantine inspectors to enforce Washington's laws;

(v) Promoting the amendment of federal laws as necessary, including the Lacey Act amendments of 1981, Title 16 United States Code sections 3371-3378; P.L. 97-79, and laws related to inspection of domestic airline passengers, baggage, and cargo; and

(vi) Coordinating efforts and issues with the federal invasive species council and its national invasive species management plan;

(f) Identify and record all invasive species present in the state;

(g) Designate the department of agriculture, health, or the Washington state department of natural resources as the lead agency for each function of invasive species control, including prevention, rapid response, eradication, enforcement, and education;

(h) Identify all state, federal, and other moneys expended for the purposes of the invasive species problem in the state;

(i) Identify all federal and private funds available to the state to fight invasive species and advise and assist state agencies to acquire these funds;

(j) Advise the governor and legislature on budgetary and other issues regarding invasive species;

(k) Provide annual reports on budgetary and other related issues to the legislature twenty days prior to each regular session;

(l) Coordinate with the counties in the fight against invasive species to increase resources and funding and to address county-sponsored activities that involve invasive species;

(m) Review state agency mandates and commercial interests that sometimes call for the maintenance of potentially destructive alien species as resources for sport hunting, aesthetic resources, or other values;

(n) Review the structure of fines and penalties to ensure maximum deterrence for invasive species-related crimes;

(o) Suggest appropriate legislation to improve the state's administration of invasive species programs and policies; and

(p) Incorporate and expand upon the state noxious weed control board, aquatic nuisance species committee, and the biodiversity council's invasive species risk assessment protocol to the extent appropriate for the council's invasive species control and eradication efforts.

NEW SECTION. **Sec. 3.** The department of agriculture shall:

(1) Gather, compile, and tabulate information and statistics concerning:

(a) Entomology and plant pathology: Insects, scales, blights, and diseases injurious or liable to become injurious to trees, plants, or other vegetation, and the ways and means of exterminating pests and diseases already in the state and preventing the introduction of pests and diseases not yet here; and

(b) General agriculture: Fruits, fibers, and useful or ornamental plants and their introduction, development, care, and manufacture or exportation, with a view to introducing, establishing, and fostering new and valuable plants and industries;

(2) Encourage and cooperate with the agricultural extension service and agricultural experiment station of the Washington State University and all private persons and organizations doing work of an experimental or educational character coming within the scope of the subject matter of this chapter and avoid, as far as practicable, duplicating the work of those persons and organizations;

(3) Enter into contracts, cooperative agreements, or other transactions with any person, agency, or organization, public or private, as may be necessary in the conduct of the department's business and on such terms as the department may deem appropriate. However, the department may not obligate any funds of the state, except funds that have been appropriated to the department. Pursuant to a cooperative agreement with any authorized federal agency, employees of the cooperative agency may be designated to carry out, on behalf of the state the same as department personnel, specific duties and responsibilities under this chapter and rules adopted under this chapter, for the effective prosecution of pest control and animal disease control and the regulation of import into the state and intrastate movement of regulated articles;

(4) Secure copies of the laws of other states, territories, and countries, and other publications germane to the subject matters of this chapter and make laws and publications available for public information and consultation;

(5) Provide buildings, grounds, apparatus, and appurtenances necessary for the examination, quarantine, inspection, and fumigation provided for under this chapter for the gathering, propagation, study, and distribution of beneficial insects, growths, and antidotes for the eradication of insects, blights, scales, or diseases injurious to vegetation of value and for the destruction of injurious vegetation;

(6) Formulate and recommend to the governor and legislature additional legislation necessary or desirable for carrying out the purposes of this chapter;

(7) Publish at the end of each year a report of the expenditures and proceedings of the department and of the results achieved by the department, together with other matters germane to this chapter that the department may deem proper;

(8) Administer a program of agricultural planning and development, including the formulation and implementation of general and special plans including, but not limited to: The functional plan for agriculture; administer the planning, development, and management of the agricultural park program; plan, construct, operate, and maintain the state irrigation water systems; review, interpret, and make recommendations with respect to public policies and actions relating to agricultural land and water use; assist in research, evaluation, development, enhancement, and expansion of local agricultural industries; and serve as liaison with other public agencies and private organizations for these purposes. The department shall act to conserve and protect agricultural lands and irrigation water systems, promote diversified agriculture, increase agricultural self-sufficiency, and ensure the availability of agriculturally suitable lands; and

(9) Manage, administer, and exercise control over any public lands that are designated important agricultural lands pursuant to this section including, but not limited to, establishing priorities for the leasing of these public lands within the department's jurisdiction.

NEW SECTION. **Sec. 4.** The department of agriculture shall adopt, amend, and repeal rules concerning:

(1) The introduction, transportation, and propagation of trees, shrubs, herbs, and other plants;

(2) The quarantine, inspection, fumigation, disinfection, destruction, or exclusion, either upon introduction into the state,

or at any time or place within the state, of any nursery-stock, tree, shrub, herb, vine, cut-flower, cutting, graft, scion, bud, seed, leaf, root, or rhizome; any nut, fruit, or vegetable; any grain, cereal, or legume in the natural or raw state; any moss, hay, straw, dry-grass, or other forage; any unmanufactured log, limb, or timber; or any other plant growth or plant product unprocessed or in the raw state; any sand, soil, or earth; any live bird, reptile, insect, or other animal, in any stage of development, that is in addition to the so-called domestic animals, and any box, barrel, crate, or other containers in which the articles, substances, or objects have been transported or contained, and any packing material used in connection therewith, that is or may be diseased or infested with insects or likely to assist in the transmission or dissemination of any insect or plant disease injurious, harmful, or detrimental, or likely to become injurious, harmful, or detrimental to the agricultural or horticultural industries or the forests of the state, or that is or may be in itself injurious, harmful, or detrimental to the same; provided that included therein may be rules governing the transportation of any of the articles, substances, or objects enumerated in this section between different localities within the state;

(3) The prohibition of importation into the state, from any or all foreign countries or from other parts of the United States, or the transportation from one part or locality within the state to another, of any specific article, substance, or object or class of articles, substances, or objects, among those enumerated in this section, that is diseased or infested with insects or likely to assist in the transmission or dissemination of any insect or plant disease injurious, harmful, or detrimental or likely to be injurious, harmful, or detrimental to the agricultural or horticultural industries, or the forests of the state, or that is or may be in itself injurious, harmful, or detrimental to the same;

(4) The preparation by cargo carriers of manifests of cargo transported into the state and the submission of the manifests to the department of agriculture;

(5) The establishment, maintenance, and enforcement of compliance agreements with federal or state departments of agriculture authorizing agriculture inspectors from the state of origin in the case of imports to the state, or state agricultural inspectors in the case of state exports, to monitor the growing and packing of plant commodities and any treatment procedures to ensure compliance with quarantine laws, and further authorizing the assessment of fees for conducting inspections required under the compliance agreement; and

(6) The manner in which agricultural product promotion and research activities may be undertaken, after coordinating with the agribusiness development corporation.

NEW SECTION. **Sec. 5.** The department of agriculture, with the approval of the governor, shall adopt by rule a reasonable scale of charges, which may be changed from time to time, for the inspection, disinfection, fumigation, and quarantine that is authorized, required, or permitted by this chapter. Certificates and permits in this section concerning articles or animals imported, or proposed to be imported, into the state, and the charges provided for, must be paid for in advance before any certificate or permit is delivered, or any of the articles or animals are permitted to be landed. If further expense is incurred in the inspection, treatment, or quarantine of any of the articles or animals, the charges must be paid before any of the articles or animals are delivered.

NEW SECTION. **Sec. 6.** The director of the department of agriculture shall establish a program for the inspection of conveyances entering Washington through the airport and maritime facilities to prevent the introduction into or the spread within this state of pests.

(1) The director of the department of agriculture shall maintain plant quarantine inspection stations at points of entry at airports and marine terminals.

(2) The director of the department of agriculture shall establish a program for the dissemination of information at airports and marine terminals in order to provide the users of the facilities information regarding the pest control and quarantine requirements of this state.

(3) The director of the department of agriculture may authorize the inspection and certification of conveyances outside the state if the director finds that the inspection and certification meet the standards established for in-state inspection and certification programs and, for that purpose, may enter into any agreements necessary with any other state or the federal government. The director may provide that conveyances inspected and certified pursuant to this subsection are not required to be inspected at Washington airports or marine terminals.

(4) The functions of this section must be performed by the Washington invasive species authority and the duties must be performed by plant quarantine officers.

NEW SECTION. **Sec. 7.** (1) The director of the department of agriculture may establish a task force comprised of representatives of the following industries:

- (a) Air common carriers;
- (b) Port authorities;
- (c) Maritime common carriers; and
- (d) Other industries that the director deems appropriate.

(2) The goal of this task force is to develop and implement a program of preventive measures to reduce the likelihood that pests will be transported into the state aboard aircraft or vessels. The program may include but is not limited to:

(a) Educational materials to warn passengers of the special quarantine and pest exclusion rules and regulations that apply in Washington;

(b) Recommendations for appropriate methods for distributing those educational materials to passengers;

(c) Special training for employees of carriers who handle cargo and baggage that may contain pests;

(d) Special training and educational materials aimed at enlisting the assistance of passenger ticket agents in educating potential passengers of the special pest exclusion measures in effect at Washington points of entry; and

(e) Public announcements to passengers in transit to Washington regarding the rules and relating to transporting pests into the state.

(3) The program shall include methods for determining the effectiveness of the preventive measures developed pursuant to this section.

(4) The task force shall also develop a program for the purposes of seeking federal funds sufficient to maintain airport pest inspection activities.

Sec. 8. RCW 79A.25.310 and 2016 sp.s. c 7 s 1 are each amended to read as follows:

(1) There is created the Washington invasive species ~~((council))~~ authority to exist until June 30, ~~((2022))~~ 2030. Staff support to the ~~((council))~~ authority shall be provided by the ~~((recreation and conservation office))~~ department of agriculture and from the agencies represented on the ~~((council))~~ authority. For administrative purposes, the ~~((council))~~ authority shall be located within the office.

(2) The purpose of the ~~((council))~~ authority is to provide policy level direction, planning, and coordination for combating harmful invasive species throughout the state and preventing the introduction of others that may be potentially harmful.

(3) The ((~~council~~)) authority is a joint effort between local, tribal, state, and federal governments, as well as the private sector and nongovernmental interests. The purpose of the ((~~council~~)) authority is to foster cooperation, communication, and coordinated approaches that support local, state, and regional initiatives for the prevention and control of invasive species.

(4) For the purposes of this chapter, "invasive species" include nonnative organisms that cause economic or environmental harm and are capable of spreading to new areas of the state. "Invasive species" does not include domestic livestock, intentionally planted agronomic crops, or nonharmful exotic organisms.

Sec. 9. RCW 79A.25.320 and 2006 c 152 s 3 are each amended to read as follows:

(1) Membership in the ((~~council~~)) Washington invasive species authority includes a representative from the following entities:

(a) The department of agriculture, represented by the director or the director's designee;

(b) The department of fish and wildlife, represented by the director or the director's designee;

(c) The department of ecology, represented by the director or the director's designee;

(d) The department of natural resources, represented by the commissioner or the commissioner's designee;

(e) The department of transportation, represented by the secretary or the secretary's designee;

(f) The Washington state noxious weed control board, appointed by the board;

(g) A county located east of the crest of the Cascade mountains, appointed by the other members of the ((~~council~~)) authority; and

(h) A county located west of the crest of the Cascade mountains, appointed by the other members of the ((~~council~~)) authority.

(2) The ~~((councilmembers))~~ authority members may add members to the ~~((council))~~ authority as the ~~((councilmembers))~~ authority members deem appropriate to accomplish its goals.

(3) The ~~((council))~~ authority must invite one representative each from the United States department of agriculture, the United States fish and wildlife service, the United States environmental protection agency, and the United States coast guard to participate on the ~~((council))~~ authority in a nonvoting, ex officio capacity.

(4) A representative of the office of the governor must convene the first meeting of the ~~((council))~~ authority and serve as chair until the ~~((council))~~ authority selects a chair. At the first meeting of the ~~((council))~~ authority, the ~~((council))~~ authority shall address issues including, but not limited to, voting methods, meeting schedules, and the need for and use of advisory and technical committees.

Sec. 10. RCW 79A.25.330 and 2006 c 152 s 4 are each amended to read as follows:

The ~~((council's))~~ authority's goals are to:

(1) Minimize the effects of harmful invasive species on Washington's citizens and ensure the economic and environmental well-being of the state;

(2) Serve as a forum for identifying and understanding invasive species issues from all perspectives;

(3) Serve as a forum to facilitate the communication, cooperation, and coordination of local, tribal, state, federal, private, and nongovernmental entities for the prevention, control, and management of nonnative invasive species;

(4) Serve as an avenue for public outreach and for raising public awareness of invasive species issues;

(5) Develop and implement a statewide invasive species strategic plan as described in this chapter;

(6) Review the current funding mechanisms and levels for state agencies to manage noxious weeds on the lands under their authority;

(7) Make recommendations for legislation necessary to carry out the purposes of this chapter;

(8) Establish criteria for the prioritization of invasive species response actions and projects; and

(9) Utilizing the process described in subsection (8) of this section, select at least one project per year from the strategic plan for coordinated action by the Washington invasive species ((councilmember)) authority member entities.

Sec. 11. RCW 79A.25.340 and 2006 c 152 s 5 are each amended to read as follows:

(1) The ((council)) authority shall develop and periodically update a statewide strategic plan for addressing invasive species. The strategic plan should incorporate the reports and activities of the aquatic nuisance species committee, the state noxious weed control board, and other appropriate reports and activities. In addition, the ((council)) authority must coordinate with the biodiversity council created in Executive Order 04-02 to ensure that a statewide strategy for the control of invasive species is integrated into the thirty-year strategy for biodiversity conservation that the biodiversity council must submit to the legislature in 2007.

(2) The strategic plan must, at a minimum, address:

- (a) Statewide coordination and intergovernmental cooperation;
- (b) Prevention of new biological invasions through deliberate or unintentional introduction;
- (c) Inventory and monitoring of invasive species;
- (d) Early detection of and rapid response to new invasions;
- (e) Control, management, and eradication of established populations of invasive species;
- (f) Projects that can be implemented during the period covered by the strategic plan for the control, management, and eradication of new or established populations of invasive species;

(g) Revegetation, reclamation, or restoration of native species following control or eradication of invasive species;

(h) Tools that can be made available to assist state agencies that are responsible for managing public land to control invasive noxious weeds and recommendations as to how the agencies should be held responsible for the failure to control invasive noxious weeds;

(i) Research and public education;

(j) Funding and resources available for invasive species prevention, control, and management; and

(k) Recommendations for legislation necessary to carry out the purposes of this chapter.

(3) The strategic plan must be updated at least once every three years following its initial development. The strategic plan must be submitted to the governor and appropriate committees of the legislature by September 15th of each applicable year. The ~~((council))~~ authority shall complete the initial strategic plan within two years of June 7, 2006.

(4) Each state department and agency named to the ~~((council))~~ authority shall, consistent with state law, make best efforts to implement elements of the completed plan that are applicable to the department or agency.

Sec. 12. RCW 79A.25.350 and 2016 c 197 s 11 are each amended to read as follows:

(1) The ~~((council))~~ authority shall submit a biennial report of its activities to the governor and the relevant policy committees of the senate and house of representatives by December 15th of each even-numbered year. The report must include an evaluation of progress made in the preceding biennium to implement or carry out the strategic plan and an identification of projects from the strategic plan that will be a focus for the following biennium.

(2) Prior to the start of the 2011 legislative session, the ~~((council))~~ authority must prepare a report to the appropriate

committees of the legislature that makes recommendations as to the extension or modification of the ~~((council))~~ authority.

Sec. 13. RCW 79A.25.360 and 2006 c 152 s 7 are each amended to read as follows:

The ~~((council))~~ authority may establish advisory and technical committees that it considers necessary to aid and advise the ~~((council))~~ authority in the performance of its functions. The committees may be continuing or temporary committees. The ~~((council))~~ authority shall determine the representation, membership, terms, and organization of the committees and appoint their members.

Sec. 14. RCW 79A.25.370 and 2016 sp.s. c 7 s 2 are each amended to read as follows:

~~((1))~~ The invasive species ~~((council))~~ authority account is created in the custody of the state treasurer. All receipts from appropriations, gifts, grants, and donations must be deposited into the account. Expenditures from the account may be used only to carry out the purposes of the ~~((council))~~ authority. The account is subject to allotment procedures under chapter 43.88 RCW and the approval of the director of the recreation and conservation office is required for expenditures. All expenditures must be directed by the ~~((council))~~ authority.

~~((2) This section expires June 30, 2022.))~~

NEW SECTION. **Sec. 15.** RCW 79A.25.310, 79A.25.320, 79A.25.330, 79A.25.340, 79A.25.350, 79A.25.360, and 79A.25.370 are each recodified as sections in chapter 15.--- RCW (the new chapter created in section 17 of this act).

NEW SECTION. **Sec. 16.** This chapter expires June 30, 2030.

NEW SECTION. **Sec. 17.** Sections 1 through 7 and 16 of this act
constitute a new chapter in Title 15 RCW.

--- END ---