



LC 25000-003/494 Aquatic Invasive Species Program Updates

Problems

1. Oregon law does not require boaters to drain standing water after a boat is removed from waters of the state; instead, launching a boat with “aquatic invasive species within its bilge, livewell, motorwell or other interior location” is prohibited. This portion of the “Clean Launch Law” is much more difficult to enforce than the provision that prohibits the launching of a boat with “visible aquatic species on its exterior,” especially when the aquatic invasive species are microscopic in size.
2. When a boater bypasses an open mandatory inspection station, law enforcement officers lack the authority to require boaters to return for an invasive species inspection. Instead, all the officer can do is issue a citation to the driver for “failure to stop.” The Department of Fish and Wildlife inspectors track the number of vehicles towing boats and on average across all inspection stations, 29% of vehicles fail to stop. Boats that fail to stop for inspection pose a contamination risk to Oregon waterways. Additionally, if a boat is found with aquatic invasive species, drivers are not required to comply with a decontamination order.
3. ORS 830.999 Penalty for transporting AIS, subsection (2), states that civil penalties do not apply to “a person who transports aquatic invasive species in ballast water.” This exemption is believed to be in-place to cover the discharge of ballast water from vessels that are regulated by the DEQ under ORS 783.620 - 992. However, the exemption is vague and could be interpreted to exclude the ballast water that could be carried by small vessels and recreational boats (e.g. wakeboard boats).
4. Existing statutes related to Aquatic Invasive Species use language referring to a “law enforcement officer” that is inconsistent with the language used in other statutes in Chapter 830.
5. In ORS 830.575, there are two descriptions of regulated types of boats with language that is not descriptive enough for the intended category.
6. Current law does not explicitly allow the Aquatic Invasive Species fund to receive gifts, grant funds, or other funds appropriated by the legislature.

Solutions

1. The legislative concept requires a person to drain standing water from his or her boat after the boat is removed from the water and before the boat is transported away from the boat launch/retrieval area. Additionally, a person is required to remove or open any drain plugs, valves, etc. while the boat is being transported within the state. The concept establishes the penalty for “failure to pull the plug” to be a Class D violation with a presumptive fine of \$30 for a person transporting a non-motorized boat and \$50 for a person transporting a motorized boat.
2. The legislative concept requires a person to return a watercraft (boat, trailer, and motor) to the inspection station if he or she is stopped by a peace officer for bi-passing an open station, is within five miles of the station and the officer requests the watercraft to return. “Failure to return to the inspection station” would be a class C misdemeanor. This level of a violation is required based on the action that would occur with a peace officer escorting a boat back to the station. Based on an Oregon DOJ review (2016), a crime must take place in order for a peace officer to take “custody” of a boat and escort it back to an open inspection station.

If the person transporting a boat complies with the peace officer's order to return to the station, then the person will be in compliance with the order and no crime or violation will have occurred.

Additionally, language is proposed that would require a person to comply with a decontamination order if given by an authorized agency inspector.

3. This legislative concept clarifies that the exemption only applies to vessels carrying "ballast water" as defined in ORS 783.625.

4. This legislative concept replaces the word "enforcement officer" with "peace officer" in ORS 830.998 for consistency with the other statutes in Chapter 830.

5. This legislative concept replaces in ORS 830.575 the wording "operated by a nonresident" with "that is not registered in Oregon" for clarification of the permit category. Additionally, in this same ORS in section (4) the wording "outfitter/guide" is added to clarify the eligibility of the discounted permit rates for a boat livery (rental business). Throughout the statutes, the term "manually propelled" is replaced with "non-motorized."

6. Lastly, language is added to ORS 830.585 to clarify that the Aquatic Invasive Species Fund can receive gifts, grant funds, and other funds appropriated by the legislature in addition to fees from permit sales.

Fees

No changes.