

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

DRAFT
9.28.17

BILL 3

LLS NO. 18-0224.01 Jennifer Berman x3286

INTERIM COMMITTEE BILL

Water Resources Review Committee

BILL TOPIC: "Mussel-free Colorado Act"

A BILL FOR AN ACT

101 **CONCERNING THE FINANCING OF THE DIVISION OF PARKS AND**
102 **WILDLIFE'S AQUATIC NUISANCE SPECIES PROGRAM, AND, IN**
103 **CONNECTION THEREWITH, CREATING AN AQUATIC NUISANCE**
104 **SPECIES STAMP FOR THE OPERATION OF MOTORBOATS AND**
105 **SAILBOATS IN WATERS OF THE STATE, INCREASING PENALTIES**
106 **RELATED TO THE INTRODUCTION OF AQUATIC NUISANCE SPECIES**
107 **INTO THE WATERS OF THE STATE, AND COMBINING TWO**
108 **SEPARATE FUNDS RELATED TO THE AQUATIC NUISANCE SPECIES**
109 **PROGRAM INTO ONE FUND.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill

*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Water Resources Review Committee. Section 3 of the bill updates a legislative declaration concerning aquatic nuisance species to encourage the federal government to dedicate sufficient funding and resources to the detection, prevention, control, and eradication of aquatic nuisance species for federally owned or managed aquatic resources and water infrastructure in Colorado.

Section 4 defines "motorboat" and "sailboat".

Section 5 authorizes the division of parks and wildlife (division) to seek reimbursement from a conveyance owner (*i.e.*, motor vehicles, trailers, and watercraft) for the storage and decontamination of a conveyance that has been impounded and quarantined due to the suspected presence of an aquatic nuisance species.

Section 6 requires an in-state resident registering a motorboat or sailboat in Colorado for use on or after January 1, 2019, to pay a \$25 fee for an aquatic nuisance species stamp in addition to the watercraft registration fee. A nonresident using a motorboat or sailboat in waters of the state on or after January 1, 2019, is required to pay a \$50 fee for an aquatic nuisance species stamp.

Section 7 increases penalties related to aquatic nuisance species and creates new penalties for failing to purchase an aquatic nuisance species stamp; failing to comply with a qualified peace officer's or an authorized agent's request to stop, detain, and inspect a vessel; and launching a vessel without first obtaining a vessel inspection at an aquatic nuisance species check station.

Section 8 combines the division of parks and outdoor recreation aquatic nuisance species fund and the division of wildlife aquatic nuisance species fund into a single fund: the division of parks and wildlife aquatic nuisance species fund.

Sections 1, 2, and 9 make conforming amendments.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 33-1-112, **repeal**

3 (1)(b) as follows:

4 **33-1-112. Funds - cost accounting - definition - repeal.**

5 (1) (b) ~~For the fiscal year commencing July 1, 2008, there shall be~~
6 ~~transferred one million two hundred fifty thousand dollars from the~~

1 ~~wildlife cash fund to the division of wildlife aquatic nuisance species~~
2 ~~fund, created in section 33-10.5-108.~~

3 **SECTION 2.** In Colorado Revised Statutes, 33-10-111, **amend**
4 (1) as follows:

5 **33-10-111. Parks and outdoor recreation cash fund - parks for**
6 **future generations trust fund - creation - fees - accounting**
7 **expenditures for roads and highways - definition.** (1) Except as
8 provided in subsection (6) of this section and ~~sections 33-14-106~~
9 SECTIONS 33-10.5-104.5, 33-10.5-105, 33-14-106, 33-14.5-106, and
10 33-15-103, all ~~moneys~~ MONEY derived pursuant to articles 10 to 15 of this
11 ~~title~~ TITLE 33 from division facilities and fees, and all interest earned on
12 ~~such moneys~~ THE MONEY, shall be credited to the parks and outdoor
13 recreation cash fund, which is hereby created, together with all ~~moneys~~
14 MONEY donated, transferred, or appropriated from whatever source for the
15 use of the division in administering, managing, and supervising the state
16 parks and outdoor recreation system and in the financing of impact
17 assistance grants pursuant to part 3 of article 25 of title 30. ~~C.R.S.~~ All
18 cash receipts from state-owned desert, saline, and internal improvement
19 lands shall be credited to the parks and outdoor recreation cash fund.

20 **SECTION 3.** In Colorado Revised Statutes, **amend** 33-10.5-101
21 as follows:

22 **33-10.5-101. Legislative declaration.** (1) The general assembly
23 hereby ~~recognizes~~ FINDS, DETERMINES, AND DECLARES THAT:

24 (a) ~~The~~ AQUATIC NUISANCE SPECIES HAVE devastating economic,
25 environmental, and social impacts ~~of aquatic nuisance species~~ on the
26 aquatic resources and water infrastructure of the state;

27 (b) ~~The general assembly further recognizes the potential of~~

1 Recreational vessels ~~to be~~ ARE a significant source of the spread of
2 aquatic nuisance species in Colorado;

3 (c) ONE OF THE DIVISION'S HIGHEST PRIORITIES SHOULD BE THE
4 PREVENTION, CONTAINMENT, AND ERADICATION OF AQUATIC NUISANCE
5 SPECIES IN WATERS OF THE STATE IN WHICH THE SPECIES HAVE BEEN
6 DETECTED OR ARE LIKELY TO BE INTRODUCED; AND

7 (d) Therefore, ~~the general assembly finds, determines, and~~
8 ~~declares that~~ the purposes of enacting this ~~article~~ ARTICLE 10.5 are:

9 (I) To implement actions to detect, prevent, contain, control,
10 monitor, and, whenever possible, eradicate aquatic nuisance species from
11 the waters of the state and to protect human health, safety, and welfare
12 from aquatic nuisance species; ~~It is the intent of the general assembly~~ AND

13 (II) To foster and encourage, to the greatest extent possible,
14 voluntary compliance with this ~~article~~. ~~It is the intent of the general~~
15 ~~assembly that prevention, containment, and eradication of aquatic~~
16 ~~nuisance species in waters of the state in which such species have been~~
17 ~~detected or are likely to be introduced, shall be the division's highest~~
18 ~~priorities~~ ARTICLE 10.5.

19 (2) THE GENERAL ASSEMBLY FURTHER FINDS, DETERMINES, AND
20 DECLARES THAT:

21 (a) SOME OF THE AQUATIC RESOURCES AND WATER
22 INFRASTRUCTURE WITHIN THE STATE ARE OWNED OR MANAGED BY THE
23 UNITED STATES BUREAU OF RECLAMATION, THE UNITED STATES ARMY
24 CORPS OF ENGINEERS, THE UNITED STATES FOREST SERVICE, OR ANOTHER
25 AGENCY OF THE FEDERAL GOVERNMENT, AND NOT BY THE DIVISION;

26 (b) A FAILURE TO DETECT, PREVENT, CONTAIN, AND, WHEN
27 POSSIBLE, ERADICATE AQUATIC NUISANCE SPECIES FROM ANY ONE OF

1 THESE FEDERALLY MANAGED AQUATIC RESOURCES OR WATER
2 INFRASTRUCTURE FACILITIES WOULD THREATEN THE HEALTH AND
3 VIBRANCY OF ALL AQUATIC RESOURCES AND WATER INFRASTRUCTURE
4 FACILITIES WITHIN THE STATE; AND

5 (c) THEREFORE, THE PURPOSES FOR WHICH THIS ARTICLE 10.5 IS
6 ENACTED MAY BE ACHIEVED ONLY IF THE FEDERAL GOVERNMENT
7 DEDICATES SUFFICIENT FUNDING AND RESOURCES TO THE PREVENTION,
8 CONTAINMENT, AND, WHEN POSSIBLE, ERADICATION OF AQUATIC
9 NUISANCE SPECIES FROM THE AQUATIC RESOURCES AND WATER
10 INFRASTRUCTURE MANAGED BY FEDERAL AGENCIES WITHIN THE STATE.

11 **SECTION 4.** In Colorado Revised Statutes, 33-10.5-102, **amend**
12 the introductory portion; and **add** (8.5) and (10) as follows:

13 **33-10.5-102. Definitions.** As used in this ~~article~~ ARTICLE 10.5,
14 unless the context otherwise requires:

15 (8.5) "MOTORBOAT" HAS THE SAME MEANING AS SET FORTH IN
16 SECTION 33-13-102 (1).

17 (10) "SAILBOAT" HAS THE SAME MEANING AS SET FORTH IN
18 SECTION 33-13-102 (4).

19 **SECTION 5.** In Colorado Revised Statutes, 33-10.5-104, **amend**
20 (3); and **add** (6) as follows:

21 **33-10.5-104. Inspection of conveyances - impoundment and**
22 **quarantine - reimbursement - rules.** (3) The impoundment and
23 quarantine of a conveyance may continue for the reasonable period
24 necessary to inspect and decontaminate the conveyance and ensure that
25 the aquatic nuisance species has been completely ~~eradicated~~ REMOVED
26 from the conveyance and is no longer living.

27 (6) WHEN A CONVEYANCE THAT HAS BEEN IMPOUNDED AND

1 QUARANTINED PURSUANT TO THIS SECTION IS DECONTAMINATED, THE
2 DIVISION MAY CHARGE THE OWNER OF THE CONVEYANCE THE COST
3 INCURRED BY THE DIVISION OR ITS CONTRACTOR IN STORING AND
4 DECONTAMINATING THE CONVEYANCE.

5 **SECTION 6.** In Colorado Revised Statutes, **add 33-10.5-104.5**
6 as follows:

7 **33-10.5-104.5. Aquatic nuisance species stamp - creation -**
8 **short title - rules.** (1) THE SHORT TITLE OF THIS SECTION IS THE
9 "MUSSEL-FREE COLORADO ACT".

10 (2) (a) WHEN OBTAINING A VESSEL REGISTRATION FROM THE
11 DIVISION PURSUANT TO SECTION 33-13-103 FOR 2019 AND SUBSEQUENT
12 YEARS, A PERSON SHALL ALSO PURCHASE AN AQUATIC NUISANCE SPECIES
13 STAMP FROM THE DIVISION AT A COST OF TWENTY-FIVE DOLLARS. THE
14 PERSON'S VESSEL REGISTRATION SUFFICIENTLY DEMONSTRATES PAYMENT
15 FOR THE AQUATIC NUISANCE SPECIES STAMP.

16 (b) ON AND AFTER JANUARY 1, 2019, FOR ANY MOTORBOAT OR
17 SAILBOAT EXEMPTED FROM REGISTRATION IN COLORADO PURSUANT TO
18 SECTION 33-13-103 (1)(b) TO (1)(d), A PERSON SHALL PURCHASE AN
19 AQUATIC NUISANCE SPECIES STAMP FROM THE DIVISION AT A COST OF
20 FIFTY DOLLARS TO OPERATE OR USE THE MOTORBOAT OR SAILBOAT ON THE
21 WATERS OF THIS STATE OR TO POSSESS THE MOTORBOAT OR SAILBOAT AT
22 A VESSEL STAGING AREA. A PERSON WHO PAYS FOR AN AQUATIC NUISANCE
23 SPECIES STAMP FOR A MOTORBOAT OR SAILBOAT PURSUANT TO THIS
24 SUBSECTION (2)(b) SHALL, WHEN OPERATING THE MOTORBOAT OR
25 SAILBOAT, RETAIN THE STAMP RECEIPT ON HIS OR HER PERSON OR ON THE
26 MOTORBOAT OR SAILBOAT.

27 (3) THE PARKS AND WILDLIFE COMMISSION MAY, BY RULE

1 ADOPTED AFTER THE EFFECTIVE DATE OF THIS SECTION, ADJUST THE
2 AMOUNT OF THE AQUATIC NUISANCE SPECIES STAMP DESCRIBED IN
3 SUBSECTION (2) OF THIS SECTION BY AN AMOUNT UP TO THE TOTAL
4 AMOUNT REFLECTED BY THE CHANGES MADE IN THE UNITED STATES
5 BUREAU OF LABOR STATISTICS CONSUMER PRICE INDEX FOR THE
6 DENVER-BOULDER-GREELEY CONSOLIDATED METROPOLITAN STATISTICAL
7 AREA FOR ALL URBAN CONSUMERS AND ALL GOODS, OR ITS SUCCESSOR
8 INDEX.

9 (4) THE DIVISION SHALL TRANSMIT THE STAMP FEES COLLECTED
10 PURSUANT TO THIS SECTION TO THE STATE TREASURER, WHO SHALL
11 CREDIT THEM TO THE DIVISION OF PARKS AND WILDLIFE AQUATIC
12 NUISANCE SPECIES FUND CREATED IN SECTION 33-10.5-108.

13 **SECTION 7.** In Colorado Revised Statutes, **amend** 33-10.5-105
14 as follows:

15 **33-10.5-105. Prohibition of aquatic nuisance species -**
16 **penalties.** (1) ~~No~~ A person shall NOT:

17 (a) Possess, import, export, ship, or transport an aquatic nuisance
18 species;

19 (b) Release, place, plant, or cause to be released, placed, or
20 planted into the waters of the state an aquatic nuisance species; ~~or~~

21 (c) Refuse to comply with a proper order issued under this ~~article~~
22 ARTICLE 10.5; OR

23 (d) FAIL OR REFUSE TO REIMBURSE THE DIVISION IN ACCORDANCE
24 WITH SECTION 33-10.5-104 (6).

25 (2) (a) A person who knowingly or willfully violates subsection
26 (1) of this section:

27 (a) (I) For a first offense, is guilty of a class 2 petty offense, as

1 defined by section 18-1.3-503, ~~C.R.S.~~, and, upon conviction, shall be
2 ~~subject to a fine of one hundred fifty~~ FINED FIVE HUNDRED dollars and
3 ~~shall be~~ issued a warning FROM THE DIVISION of the increased penalties
4 for subsequent violations; ~~from the division;~~

5 (b) (II) For a second offense, is guilty of a misdemeanor and, upon
6 conviction, shall be fined one thousand dollars; and

7 (c) (III) For a third and any subsequent offense, commits a class
8 2 misdemeanor and, upon conviction, shall be punished as provided in
9 section 18-1.3-501. ~~C.R.S.~~

10 (b) THE FINE AMOUNTS COLLECTED PURSUANT TO THIS
11 SUBSECTION (2) SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO
12 SHALL CREDIT THE AMOUNTS TO THE DIVISION OF PARKS AND WILDLIFE
13 AQUATIC NUISANCE SPECIES FUND, CREATED IN SECTION 33-10.5-108.

14 (3) (a) A PERSON SHALL NOT:

15 (I) FAIL OR REFUSE TO COMPLY WITH A QUALIFIED PEACE OFFICER'S
16 OR AN AUTHORIZED AGENT'S REQUEST, PURSUANT TO SECTION
17 33-10.5-104, TO STOP, DETAIN, AND INSPECT ANY CONVEYANCE THAT THE
18 PERSON IS OPERATING;

19 (II) LAUNCH A VESSEL WITHOUT OBTAINING A CONVEYANCE
20 INSPECTION AT AN AQUATIC NUISANCE SPECIES CHECK STATION PURSUANT
21 TO SECTION 33-10.5-103; OR

22 (III) IF REQUIRED TO PURCHASE AN AQUATIC NUISANCE SPECIES
23 STAMP PURSUANT TO SECTION 33-10.5-104.5, FAIL OR REFUSE TO
24 PURCHASE THE STAMP.

25 (b) A PERSON WHO VIOLATES SUBSECTION (3)(a) OF THIS SECTION
26 IS GUILTY OF A CLASS 2 PETTY OFFENSE AND, UPON CONVICTION, SHALL BE
27 PUNISHED BY A FINE OF ONE HUNDRED DOLLARS.

1 (c) THE PROCEEDS FROM COLLECTION OF THE FOLLOWING FINES
2 IMPOSED PURSUANT TO THIS SUBSECTION (3) SHALL BE TRANSMITTED TO
3 THE STATE TREASURER, WHO SHALL CREDIT THE AMOUNTS COLLECTED TO
4 THE DIVISION OF PARKS AND WILDLIFE AQUATIC NUISANCE SPECIES FUND
5 CREATED IN SECTION 33-10.5-108:

6 (I) A FINE COLLECTED FOR A VIOLATION OF SUBSECTION (3)(a)(I)
7 OF THIS SECTION; AND

8 (II) IF COLLECTED FROM A PERSON WHO IS REQUIRED TO OBTAIN
9 AND DISPLAY AN AQUATIC NUISANCE SPECIES STAMP PURSUANT TO
10 SECTION 33-10.5-104.5 (2)(b), A FINE COLLECTED FOR A VIOLATION OF
11 SUBSECTION (3)(a)(II) OF THIS SECTION.

12 **SECTION 8.** In Colorado Revised Statutes, **amend** 33-10.5-108
13 as follows:

14 **33-10.5-108. Division of parks and wildlife aquatic nuisance**
15 **species fund - creation - repeal.** (1) (a) (I) There is hereby created in the
16 state treasury the division of parks and ~~outdoor recreation~~ WILDLIFE
17 aquatic nuisance species fund, ALSO REFERRED TO IN THIS SECTION AS THE
18 "FUND", which shall be administered by the division. ~~of parks and wildlife~~
19 ~~in the department of natural resources and~~ THE FUND consists of all
20 money transferred by the STATE treasurer as specified in ~~section~~ SECTIONS
21 39-29-109.3 (2)(m), ~~and subsection (1.5)(a) of this section~~ 33-10.5-104.5,
22 AND 33-10.5-105. All money in the fund is continuously appropriated to
23 the division ~~of parks and wildlife~~ for the purpose of implementing ~~the~~
24 ~~provisions of~~ this article 10.5. All money in the fund at the end of each
25 fiscal year ~~shall remain~~ REMAINS in the fund and ~~shall~~ DOES not revert to
26 the general fund or any other fund.

27 (II) ON THE EFFECTIVE DATE OF THIS SUBSECTION (1)(a)(II), THE

1 STATE TREASURER SHALL TRANSFER THE UNOBLIGATED BALANCE OF THE
2 DIVISION OF WILDLIFE AQUATIC NUISANCE SPECIES FUND, AS IT EXISTED
3 PRIOR TO THE EFFECTIVE DATE OF THIS SUBSECTION (1)(a)(II), TO THE
4 FUND. THIS SUBSECTION (1)(a)(II) IS REPEALED, EFFECTIVE JULY 1, 2019.

5 (b) In the use of ~~such moneys~~ THE MONEY IN THE FUND, priority
6 shall be given to containment and eradication of aquatic nuisance species
7 in the waters of the state in which ~~such~~ AQUATIC NUISANCE species have
8 been detected and prevention of the introduction of AQUATIC nuisance
9 species in areas determined to be most vulnerable to such an introduction.

10 (1.5) ~~On July 1, 2017, the state treasurer shall transfer from the~~
11 ~~general fund:~~

12 (a) ~~Two million four hundred fifty-two thousand one hundred~~
13 ~~ninety-three dollars to the division of parks and outdoor recreation aquatic~~
14 ~~nuisance species fund; and~~

15 (b) ~~One million one hundred eighty-four thousand one hundred~~
16 ~~seventy-one dollars to the division of wildlife aquatic nuisance species~~
17 ~~fund.~~

18 (2) (a) ~~There is hereby created in the state treasury the division of~~
19 ~~wildlife aquatic nuisance species fund, which shall be administered by the~~
20 ~~division of parks and wildlife in the department of natural resources and~~
21 ~~consists of all money transferred by the treasurer as specified in sections~~
22 ~~33-1-112 and 39-29-109.3 (2)(m) and subsection (1.5)(b) of this section.~~
23 ~~All money in the fund is continuously appropriated to the division of~~
24 ~~parks and wildlife for the purpose of implementing the provisions of this~~
25 ~~article 10.5. All money in the fund at the end of each fiscal year shall~~
26 ~~remain in the fund and shall not revert to the general fund or any other~~
27 ~~fund.~~

1 ~~(b) In the use of such moneys, priority shall be given to~~
2 ~~containment and eradication of aquatic nuisance species in the waters of~~
3 ~~the state in which such species have been detected and prevention of the~~
4 ~~introduction of nuisance species in areas determined to be most~~
5 ~~vulnerable to such an introduction.~~

6 **SECTION 9.** In Colorado Revised Statutes, 39-29-109.3, **amend**
7 (2)(m) as follows:

8 **39-29-109.3. Severance tax operational fund - repeal.**

9 (2) Subject to the requirements of subsections (3) and (4) of this section,
10 if the general assembly chooses not to spend up to one hundred percent
11 of the money in the operational fund as specified in subsection (1) of this
12 section, the state treasurer shall transfer the following:

13 (m) For the mitigation of aquatic nuisance species as specified in
14 article 10.5 of title 33: ~~C.R.S.:~~

15 (I) Repealed.

16 (II) For the state fiscal year commencing July 1, 2009, and every
17 state fiscal year thereafter, four million six thousand five dollars ~~as~~
18 ~~follows: Two million seven hundred one thousand four hundred sixty-one~~
19 ~~dollars to the division of parks and outdoor recreation WILDLIFE aquatic~~
20 ~~nuisance species fund created in section 33-10.5-108 (1). C.R.S.; and one~~
21 ~~million three hundred four thousand five hundred forty-four dollars to the~~
22 ~~division of wildlife aquatic nuisance species fund created in section~~
23 ~~33-10.5-108 (2), C.R.S.~~

24 **SECTION 10. Act subject to petition - effective date -**
25 ~~applicability.~~ (1) This act takes effect at 12:01 a.m. on the day following
26 the expiration of the ninety-day period after final adjournment of the
27 general assembly (August 8, 2018, if adjournment sine die is on May 9,

1 2018); except that, if a referendum petition is filed pursuant to section 1
2 (3) of article V of the state constitution against this act or an item, section,
3 or part of this act within such period, then the act, item, section, or part
4 will not take effect unless approved by the people at the general election
5 to be held in November 2018 and, in such case, will take effect on the
6 date of the official declaration of the vote thereon by the governor.

7 (2) This act applies to offenses committed and conveyances
8 registered on or after the applicable effective date of this act.