

CHAPTER 137

NATURAL RESOURCES

HOUSE BILL 18-1008

BY REPRESENTATIVE(S) Esgar and Arndt, Hansen, Willett, Becker K., Bridges, Buckner, Catlin, Danielson, Garnett, Gray, Hammer, Herod, Hooton, Jackson, Kraft-Tharp, McLachlan, Melton, Michaelson Jenet, Pettersen, Rankin, Roberts, Rosenthal, Valdez, Winter, Young, Duran, Coleman;
also SENATOR(S) Donovan and Coram, Jones, Court, Fenberg, Hill, Kagan, Merrifield, Todd.

AN ACT

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

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

SECTION 1. In Colorado Revised Statutes, 33-1-112, **repeal** (1)(b) as follows:

33-1-112. Funds - cost accounting - definition - repeal. (1) (b) ~~For the fiscal year commencing July 1, 2008, there shall be transferred one million two hundred fifty thousand dollars from the wildlife cash fund to the division of wildlife aquatic nuisance species fund, created in section 33-10.5-108.~~

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

33-10-111. Parks and outdoor recreation cash fund - parks for future generations trust fund - creation - fees - accounting expenditures for roads and highways - definition. (1) Except as provided in subsection (6) of this section and ~~sections 33-14-106~~ SECTIONS 33-10.5-104.5, 33-10.5-105, 33-14-106, 33-14.5-106, and 33-15-103, all ~~moneys~~ MONEY derived pursuant to articles 10 to 15 of this ~~title~~ TITLE 33 from division facilities and fees, and all interest earned on ~~such moneys~~ THE MONEY, shall be credited to the parks and outdoor recreation cash fund, which is hereby created, together with all ~~moneys~~ MONEY donated, transferred, or appropriated from whatever source for the use of the division in administering,

Capital letters or bold & italic numbers indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

managing, and supervising the state parks and outdoor recreation system and in the financing of impact assistance grants pursuant to part 3 of article 25 of title 30. ~~C.R.S.~~ All cash receipts from state-owned desert, saline, and internal improvement lands shall be credited to the parks and outdoor recreation cash fund.

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

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

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

(b) ~~The general assembly further recognizes the potential of~~ Recreational vessels ~~to be~~ ARE a significant source of the spread of aquatic nuisance species in Colorado;

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

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

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

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

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

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

(b) A FAILURE TO DETECT, PREVENT, CONTAIN, AND, WHEN POSSIBLE, ERADICATE AQUATIC NUISANCE SPECIES FROM ANY ONE OF THESE FEDERALLY MANAGED AQUATIC RESOURCES OR WATER INFRASTRUCTURE FACILITIES WOULD THREATEN THE HEALTH AND VIBRANCY OF ALL AQUATIC RESOURCES AND WATER INFRASTRUCTURE FACILITIES WITHIN THE STATE; AND

(c) THEREFORE, THE PURPOSES FOR WHICH THIS ARTICLE 10.5 IS ENACTED MAY

BE ACHIEVED ONLY IF THE FEDERAL GOVERNMENT DEDICATES SUFFICIENT FUNDING AND RESOURCES TO THE PREVENTION, CONTAINMENT, AND, WHEN POSSIBLE, ERADICATION OF AQUATIC NUISANCE SPECIES FROM THE AQUATIC RESOURCES AND WATER INFRASTRUCTURE MANAGED BY FEDERAL AGENCIES WITHIN THE STATE.

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

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

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

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

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

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

(6) (a) WHEN A CONVEYANCE THAT HAS BEEN IMPOUNDED AND QUARANTINED PURSUANT TO THIS SECTION IS DECONTAMINATED, THE DIVISION MAY CHARGE THE OWNER OF THE CONVEYANCE THE COST INCURRED BY THE DIVISION OR ITS CONTRACTOR IN STORING AND DECONTAMINATING THE CONVEYANCE.

(b) THE CHARGE IMPOSED PURSUANT TO SUBSECTION (6)(a) OF THIS SECTION SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE AMOUNTS TO THE DIVISION OF PARKS AND WILDLIFE AQUATIC NUISANCE SPECIES FUND, CREATED IN SECTION 33-10.5-108.

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

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

(2)(a) FOR ANY MOTORBOAT OR SAILBOAT REGISTERED IN COLORADO PURSUANT TO SECTION 33-13-103 FOR THE YEAR 2019 AND THEREAFTER, A PERSON SHALL PURCHASE A SEPARATE AQUATIC NUISANCE SPECIES STAMP FROM THE DIVISION AT A COST OF TWENTY-FIVE DOLLARS TO OPERATE OR USE THE MOTORBOAT OR SAILBOAT ON THE WATERS OF THIS STATE OR TO POSSESS THE MOTORBOAT OR SAILBOAT AT A VESSEL STAGING AREA.

(b) ON AND AFTER JANUARY 1, 2019, FOR ANY MOTORBOAT OR SAILBOAT EXEMPTED FROM REGISTRATION IN COLORADO PURSUANT TO SECTION 33-13-103 (1)(b) TO (1)(d), A PERSON SHALL PURCHASE AN AQUATIC NUISANCE SPECIES STAMP

FROM THE DIVISION AT A COST OF FIFTY DOLLARS TO OPERATE OR USE THE MOTORBOAT OR SAILBOAT ON THE WATERS OF THIS STATE OR TO POSSESS THE MOTORBOAT OR SAILBOAT AT A VESSEL STAGING AREA; EXCEPT THAT A PERSON EXEMPTED FROM REGISTRATION IN COLORADO UNDER SECTION 33-13-103 (1)(b), BUT WHO IS A COLORADO RESIDENT, NEED ONLY PAY TWENTY-FIVE DOLLARS FOR AN AQUATIC NUISANCE SPECIES STAMP PURSUANT TO SUBSECTION (2)(a) OF THIS SECTION.

(c) A PERSON WHO PAYS FOR AN AQUATIC NUISANCE SPECIES STAMP FOR A MOTORBOAT OR SAILBOAT SHALL, WHEN OPERATING THE MOTORBOAT OR SAILBOAT, RETAIN THE STAMP RECEIPT ON HIS OR HER PERSON OR ON THE MOTORBOAT OR SAILBOAT.

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

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

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

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

- (a) Possess, import, export, ship, or transport an aquatic nuisance species;
- (b) Release, place, plant, or cause to be released, placed, or planted into the waters of the state an aquatic nuisance species; ~~or~~
- (c) Refuse to comply with a proper order issued under this ~~article~~ ARTICLE 10.5;
OR
- (d) FAIL OR REFUSE TO REIMBURSE THE DIVISION IN ACCORDANCE WITH SECTION 33-10.5-104 (6)(a).

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

~~(a)~~ (I) For a first offense, is guilty of a class 2 petty offense, as defined by section 18-1.3-503, C.R.S.; and, upon conviction, shall be subject to a fine of one hundred ~~five~~ FIFTY FIVE HUNDRED dollars and shall be issued a warning FROM THE DIVISION of the increased penalties for subsequent violations; ~~from the division;~~

~~(b)~~ (II) For a second offense, is guilty of a misdemeanor and, upon conviction,

shall be fined one thousand dollars; and

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

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

(3) (a) A PERSON SHALL NOT:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 9. In Colorado Revised Statutes, 33-15-103, **amend** (1)(a) as follows:

33-15-103. Disposition of fines - notice of court decisions. (1) (a) EXCEPT AS PROVIDED IN SECTION 33-10.5-105 (2)(b) AND (3)(c), all ~~moneys~~ MONEY collected for fines under this ~~article~~ ARTICLE 15 and articles 10 to 13 and 32 of this ~~title~~ TITLE 33, either by payment of a penalty assessment or assessed by a court upon conviction, shall be transmitted to the state treasurer, who shall credit ~~such moneys~~ THE MONEY to the parks and outdoor recreation cash fund; except that, when an arrest has been made or the citation for any offense, including those committed under article 14 of this ~~title~~ TITLE 33, has been issued by a wildlife officer of the division of parks and wildlife, all ~~moneys~~ MONEY collected for the fine shall be transmitted to the state treasurer, who shall credit one-half to the wildlife cash fund and one-half to the general fund.

SECTION 10. In Colorado Revised Statutes, 39-29-109.3, **amend** (2)(m) as follows:

39-29-109.3. Severance tax operational fund - repeal. (2) Subject to the requirements of subsections (3) and (4) of this section, if the general assembly chooses not to spend up to one hundred percent of the money in the operational fund as specified in subsection (1) of this section, the state treasurer shall transfer the following:

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

(I) Repealed.

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

SECTION 11. Act subject to petition - effective date - applicability. (1) This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2018 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) This act applies to offenses committed and conveyances operated in Colorado on or after the applicable effective date of this act.

Approved: April 23, 2018