

**Committee Action:**  
**Do Pass** \_\_\_\_\_  
**Amend & Do Pass** \_\_\_\_\_  
**Other** \_\_\_\_\_

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Assembly Committee on Natural Resources, Agriculture, and Mining  
This measure may be considered for action during today's work session.  
March 22, 2011

**ASSEMBLY BILL 167**

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

**Sponsored by:** Assembly Members Bustamante Adams, Bobzien, and Senator Lee, et al.

**Date Heard:** March 3, 2011

**Fiscal Impact:** 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

Assembly Bill 167 makes various provisions regarding protecting State waters from aquatic invasive species. The bill:

- Makes it a category E felony to knowingly or intentionally introduce an aquatic invasive species or injurious aquatic species into any waters of the State, and provides for a civil penalty upon conviction;
- Requires boaters to comply with inspection and decontamination programs approved by Nevada's Department of Wildlife (NDOW), and provides for certain measures of enforcement;
- Requires boaters to decontaminate any vessel and/or conveyance used on an impaired body of water before entering another body of water in the State;
- Allows a peace officer to stop and inspect a vessel or conveyance under certain circumstances, and also allows NDOW to set up inspection stations;
- Directs the Board of Wildlife Commissioners to set a reasonable aquatic invasive species fee to be paid yearly by boaters, who will receive a decal as proof of payment; and
- Provides that this decal must be displayed in order to operate a vessel on the waters of the State.

**Amendments:** Two amendments have been proposed for A.B. 167. The Governor's office has proposed an amendment capping the annual aquatic invasive species fee at \$10. Chair Carlton has proposed an amendment that would reduce the penalty from a category E felony to a misdemeanor for the first instance of knowingly or intentionally introducing an aquatic invasive species into Nevada waters. Any subsequent violation would be a category E felony.

MOCK-UP

PROPOSED AMENDMENT 5794 TO  
ASSEMBLY BILL NO. 167

PREPARED FOR ASSEMBLYWOMAN BUSTAMANTE ADAMS  
MARCH 16, 2011

PREPARED BY THE LEGAL DIVISION

**NOTE: THIS DOCUMENT SHOWS PROPOSED AMENDMENTS IN CONCEPTUAL FORM. THE LANGUAGE AND ITS PLACEMENT IN THE OFFICIAL AMENDMENT MAY DIFFER.**

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) **green bold** is newly added transitory language.

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 488.1795;  
5     (c) Remittances from the State Treasurer pursuant to the provisions of  
6     NRS 365.535;  
7     (d) Appropriations made by the Legislature; and  
8     (e) All other sources, except money derived from the forfeiture of any  
9     property described in NRS 501.3857 or money deposited in the Wildlife  
10    Heritage Trust Account pursuant to NRS 501.3575 or in the Trout  
11    Management Account pursuant to NRS 502.327,  
12    ↪ must be deposited with the State Treasurer for credit to the Wildlife  
13    Account in the State General Fund.  
14    2. The interest and income earned on the money in the Wildlife  
15    Account, after deducting any applicable charges, must be credited to the  
16    Account.

1 3. Except as otherwise provided in subsection 4 ~~H~~ and *NRS 503.597*,  
2 the Department may use money in the Wildlife Account only to carry out  
3 the provisions of this title and chapter 488 of NRS and as provided in NRS  
4 365.535, and the money must not be diverted to any other use.

5 4. Except as otherwise provided in NRS 502.250, 502.410 and  
6 504.155, all fees for the sale or issuance of stamps, tags, permits and  
7 licenses that are required to be deposited in the Wildlife Account pursuant  
8 to the provisions of this title and any matching money received by the  
9 Department from any source must be accounted for separately and must be  
10 used:

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

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

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

16 503.597 1. Except as otherwise provided in this section, it is  
17 unlawful, except by the written consent and approval of the Department,  
18 for any person at anytime to receive, bring or have brought or shipped into  
19 this State, or remove from one stream or body of water in this State to any  
20 other, or from one portion of the State to any other, or to any other state,  
21 any aquatic life or wildlife, 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 not be  
24 detrimental to the wildlife or the habitat of wildlife in this State. Written  
25 consent and approval of the Department may be given only if the results of  
26 the investigation prove that the introduction, removal or importation will  
27 not be detrimental to existing aquatic life or wildlife, or any spawn, eggs or  
28 young of any of them.

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

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

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

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

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

42 6. *A court before whom a defendant is convicted of a violation of*  
43 *subsection 5 shall, for each violation, order the defendant to pay a civil*  
44 *penalty of at least \$25,000 but not more than \$250,000. The money must*

1 *be deposited into the Wildlife Account in the State General Fund and*  
2 *used to:*

- 3 (a) *Remove the aquatic invasive species or injurious aquatic species;*
- 4 (b) *Reintroduce any game fish or other aquatic wildlife destroyed by*  
5 *the aquatic invasive species or injurious aquatic species;*
- 6 (c) *Restore any habitat destroyed by the aquatic invasive species or*  
7 *injurious aquatic species;*
- 8 (d) *Repair any other damage done to the waters of this State by the*  
9 *introduction of the aquatic invasive species or injurious aquatic species;*  
10 *and*

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

13 7. The provisions of this section do not apply to ~~alternative~~ :

- 14 (a) *Alternative* livestock and products made therefrom ~~[-]~~; *or*
- 15 (b) *The introduction of any species by the Department for sport*  
16 *fishing or other wildlife management programs.*

17 8. *As used in this section:*

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

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

- 27 (1) *Predation;*
- 28 (2) *Parasitism;*
- 29 (3) *Interbreeding; or*
- 30 (4) *The transmission of disease.*

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

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

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

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

39 (c) *Leave an impaired body of water in this State or any other state*  
40 *after operating a vessel on that impaired body of water and launch the*  
41 *vessel on any other body of water in this State without first*  
42 *decontaminating the vessel and any conveyance used on the impaired*  
43 *body of water.*

44 2. *In addition to any inspection conducted pursuant to NRS*  
45 *488.900, each owner, operator or person in control of a vessel or*

1 conveyance shall stop at any mandatory inspection station for aquatic  
2 invasive species authorized by the Department. If a peace officer  
3 reasonably believes, based on articulable facts, that an aquatic invasive  
4 species or aquatic plant material may be present on the vessel or  
5 conveyance, the peace officer may:

6 (a) Require the owner, operator or person in control of the vessel or  
7 conveyance to decontaminate the vessel or conveyance; or

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

10 3. A peace officer may stop and inspect a vessel or conveyance for  
11 the presence of aquatic invasive species or aquatic plant material, or for  
12 proof of a required inspection:

13 (a) Before a vessel is launched into a body of water in this State;

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

16 (c) If the vessel or conveyance is visibly transporting any aquatic  
17 invasive species or aquatic plant material; or

18 (d) If the peace officer reasonably believes, based on articulable  
19 facts, that an aquatic invasive species or aquatic plant material is  
20 present.

21 4. If a peace officer conducts an inspection of a vessel or  
22 conveyance pursuant to this section and determines that an aquatic  
23 invasive species or aquatic plant material is present on the vessel or  
24 conveyance, the peace officer may order the vessel or conveyance to be  
25 decontaminated.

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

27 (a) An inspection conducted pursuant to this section indicates the  
28 presence of an aquatic invasive species or aquatic plant material on the  
29 vessel or conveyance; or

30 (b) The owner, operator or person in control of the vessel or  
31 conveyance refuses to:

32 (1) Submit to an inspection authorized pursuant to this section; or

33 (2) Comply with an order issued pursuant to this section to  
34 decontaminate his or her vessel or conveyance.

35 6. As used in this section, "impaired body of water" means any body  
36 of water in this State or any other state which the Commission or  
37 another governmental entity has identified as containing an aquatic  
38 invasive species.

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

1 2. The owner of a vessel or conveyance which is impounded or  
2 quarantined is responsible for all costs associated with the impoundment  
3 or quarantine.

4 3. The Department may suspend the certificate of number or  
5 validation decal of an impounded or quarantined vessel until:

6 (a) The operator or owner of the vessel has completed the  
7 decontamination of the vessel; and

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

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

12 (a) Paid to the Department the aquatic invasive species fee  
13 established pursuant to subsection 4; and

14 (b) Attached the aquatic invasive species decal issued pursuant to  
15 subsection 2 to the port side transom of the vessel so that the decal is  
16 distinctly visible.

17 2. The Department shall issue to a person who pays the fee  
18 established pursuant to subsection 4 an aquatic invasive species decal as  
19 evidence of the payment of the aquatic invasive species fee.

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

22 4. The Commission shall establish by regulation ~~fa reasonable~~ an  
23 aquatic invasive species fee , which must not exceed \$10, to be paid  
24 annually ~~f~~ for the issuance of an aquatic invasive species decal. The fee  
25 must be deposited in the Wildlife Account in the State General Fund and  
26 used by the Department for enforcement of this section, NRS 503.597  
27 and sections 4 and 5 of this act and for education about and  
28 management of aquatic invasive species.

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

30 488.035 As used in this chapter, unless the context otherwise  
31 requires:

32 1. "Aquatic invasive species" means an aquatic species which is  
33 exotic or not native to this State and which the Commission has  
34 determined to be detrimental to aquatic life, water resources or  
35 infrastructure for providing water in this State.

36 2. "Aquatic plant material" means aquatic plants or parts of plants  
37 that are dependent on an aquatic environment to survive.

38 3. "Commission" means the Board of Wildlife Commissioners.

39 ~~f2~~ 4. "Conveyance" means a motor vehicle, trailer or any other  
40 equipment used to transport a vessel or containers or devices used to  
41 haul water on a vessel that may contain or carry an aquatic invasive  
42 species or aquatic plant material.

43 5. "Decontaminate" means eliminate any aquatic invasive species  
44 on a vessel or conveyance in a manner specified by the Commission  
45 which may include, without limitation, washing the vessel or conveyance,

1 *draining the water in the vessel or conveyance, drying the vessel or*  
2 *conveyance or chemically, thermally or otherwise treating the vessel or*  
3 *conveyance.*

4 6. "Department" means the Department of Wildlife.

5 ~~3-]~~ 7. "Flat wake" means the condition of the water close astern a  
6 moving vessel that results in a flat wave disturbance.

7 ~~4-]~~ 8. "Interstate waters of this State" means waters forming the  
8 boundary between the State of Nevada and an adjoining state.

9 ~~5-]~~ 9. "Legal owner" means a secured party under a security  
10 agreement relating to a vessel or a renter or lessor of a vessel to the State  
11 or any political subdivision of the State under a lease or an agreement to  
12 lease and sell or to rent and purchase which grants possession of the vessel  
13 to the lessee for a period of 30 consecutive days or more.

14 ~~6-]~~ 10. "Motorboat" means any vessel propelled by machinery,  
15 whether or not the machinery is the principal source of propulsion.

16 ~~7-]~~ 11. "Operate" means to navigate or otherwise use a motorboat or  
17 a vessel.

18 ~~8-]~~ 12. "Owner" means:

19 (a) A person having all the incidents of ownership, including the legal  
20 title of a vessel, whether or not he or she lends, rents or pledges the vessel;  
21 and

22 (b) A debtor under a security agreement relating to a vessel.

23 ↪ "Owner" does not include a person defined as a "legal owner" under  
24 subsection ~~5-]~~ 9.

25 ~~9-]~~ 13. "Prohibited substance" has the meaning ascribed to it in NRS  
26 484C.080.

27 ~~10-]~~ 14. "Registered owner" means the person registered by the  
28 Commission as the owner of a vessel.

29 ~~11-]~~ 15. A vessel is "under way" if it is adrift, making way or being  
30 propelled, and is not aground, made fast to the shore, or tied or made fast  
31 to a dock or mooring.

32 ~~12-]~~ 16. "Vessel" means every description of watercraft, other than a  
33 seaplane on the water, used or capable of being used as a means of  
34 transportation on water.

35 ~~13-]~~ 17. "Waters of this State" means any waters within the  
36 territorial limits of this State.

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

38 488.075 1. The owner of each motorboat requiring numbering by  
39 this State shall file an application for a number and for a certificate of  
40 ownership with the Department on forms approved by it accompanied by:

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

45 (b) Such evidence of ownership as the Department may require.

1 ↪ The Department shall not issue a number, a certificate of number or a  
2 certificate of ownership until this evidence is presented to it.

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

8		
9	Less than 13 feet.....	\$20
10	13 feet or more but less than 18 feet.....	25
11	18 feet or more but less than 22 feet.....	40
12	22 feet or more but less than 26 feet.....	55
13	26 feet or more but less than 31 feet.....	75
14	31 feet or more .....	100
15		

16 Except as otherwise provided in this subsection, all fees received by the  
17 Department under the provisions of this chapter must be deposited in the  
18 Wildlife Account in the State General Fund and , *except as otherwise*  
19 *provided in section 6 of this act*, may be expended only for the  
20 administration and enforcement of the provisions of this chapter. On or  
21 before December 31 of each year, the Department shall deposit with the  
22 respective county school districts 50 percent of each fee collected  
23 according to the motorboat’s length for every motorboat registered from  
24 their respective counties. Upon receipt of the application in approved form,  
25 the Department shall enter the application upon the records of its office  
26 and issue to the applicant a certificate of number stating the number  
27 awarded to the motorboat, a certificate of ownership stating the same  
28 information and the name and address of the registered owner and the legal  
29 owner.

30 3. A certificate of number may be renewed each year by the purchase  
31 of a validation decal. The fee for a validation decal is determined by the  
32 straight line length of the motorboat and  
33 is equivalent to the fee set forth in the schedule provided in subsection 2.  
34 The amount of the fee for issuing a duplicate validation decal is \$20.

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

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

42 6. The Commission shall provide by regulation for the issuance of  
43 numbers to manufacturers and dealers which may be used interchangeably  
44 upon motorboats operated by the manufacturers and dealers in connection

1 with the demonstration, sale or exchange of those motorboats. The amount  
2 of the fee for each such a number is \$20.

3 **Sec. 9.** 1. This section becomes effective upon passage and  
4 approval.

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

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

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

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

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