

AN ACT

RELATING TO GAME AND FISH; PROVIDING FOR AUTHORITY FOR THE CONTROL AND PREVENTION OF THE SPREAD OF AQUATIC INVASIVE SPECIES IN NEW MEXICO; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of Chapter 17, Article 4 NMSA 1978 is enacted to read:

"AQUATIC INVASIVE SPECIES CONTROL.--

A. Based on a determination of credible scientific evidence, the director, after consulting with the secretary of energy, minerals and natural resources and with the concurrence of the director of the New Mexico department of agriculture, is authorized to designate:

(1) species of exotic or nonnative animals or plants as aquatic invasive species;

(2) water bodies within the state as infested waters; and

(3) specific requirements to decontaminate conveyances and equipment.

B. Prior to entering any water body in the state, the owner or person in control of a warning-tagged conveyance or warning-tagged equipment or a conveyance or equipment that has been in an infested water body in New Mexico or elsewhere shall:

(1) have the conveyance or equipment decontaminated by a person or entity approved by the director to effect decontamination, and only the person legally effecting the decontamination is authorized to remove a warning tag; and

(2) provide certification by a person legally authorized to effect decontamination that the conveyance or equipment is free from infestation or otherwise demonstrate compliance with the decontamination requirements established by the director.

C. A law enforcement officer may impound a conveyance or equipment if the person transporting the conveyance or equipment refuses to submit to an inspection authorized by this section and the officer has reason to believe that an aquatic invasive species may be present, or if the conveyance or equipment has a warning tag affixed and the operator of the conveyance is attempting to enter a state water body and cannot provide evidence that the conveyance or equipment has been decontaminated. A law enforcement officer shall take action to prevent equipment or conveyances believed or known to contain an aquatic invasive species and warning-tagged equipment or conveyances from entering a state water body.

D. The impoundment of a conveyance or equipment may continue for a reasonable period necessary to inspect and

decontaminate the conveyance or equipment.

E. Notwithstanding any provision to the contrary, no motor vehicle that is drawing a conveyance shall be impounded pursuant to this section.

F. Trained personnel of the department of game and fish or the state parks division of the energy, minerals and natural resources department may:

(1) establish, operate and maintain aquatic invasive species check stations at or adjacent to the entrance to any state-controlled water body or, pursuant to a cooperative agreement, at or adjacent to any county, municipal or federally or privately controlled water body or at or adjacent to the exit point of an infested water body in order to inspect conveyances and equipment prior to a conveyance or equipment entering, being launched onto or being directly exposed to water bodies of the state or upon the conveyance's or equipment's departure from infested waters;

(2) affix a warning tag to equipment or a conveyance where the presence of an aquatic invasive species has been found; or

(3) affix a warning tag to a conveyance or equipment upon the conveyance or equipment leaving an infested water.

G. It is unlawful for a person to:

(1) knowingly possess, import, export, ship

or transport an aquatic invasive species into, within or from the state;

(2) knowingly release, place, plant or cause to be released, placed or planted an aquatic invasive species into a water body;

(3) remove a warning tag other than as provided pursuant to this section;

(4) introduce any tagged conveyance or equipment or any equipment or conveyance from which a warning tag has been unlawfully removed into a water body without first having that conveyance or equipment decontaminated; or

(5) knowingly introduce into any water body a conveyance or equipment that has been exposed to an infested water body or a water body in any other state known to contain aquatic invasive species without first being decontaminated.

H. Knowingly or willfully violating any provision of this section as a first offense is a petty misdemeanor. A second or subsequent violation of any provision of this section is a misdemeanor. Any violation is punishable pursuant to Section 31-19-1 NMSA 1978.

I. The director or the director's designee shall coordinate the monitoring of the water bodies of the state for the presence of aquatic invasive species, including privately controlled waters if the director has authorized access to them or has received permission to monitor them from the

persons controlling access to such waters.

J. The commission is authorized to adopt rules pursuant to Section 17-1-26 NMSA 1978, and the secretary of energy, minerals and natural resources is authorized to adopt rules pursuant to Section 16-2-32 NMSA 1978 as necessary to implement and enforce the provisions of this section.

K. The director may enter into cooperative agreements with any federal, state, county or municipal authority or private entity that may be in control of a water body potentially affected by aquatic invasive species.

L. As used in this section:

(1) "aquatic invasive species" means quagga mussels and zebra mussels and other exotic or nonnative aquatic animals, including invertebrates but excluding those species listed as protected in Chapter 17 NMSA 1978, or any plant or animal species whose introduction into an aquatic ecosystem is determined by the director, after consulting with the secretary of energy, minerals and natural resources and with the concurrence of the director of the New Mexico department of agriculture, to cause or be likely to cause harm to the economy, environment or human health or safety;

(2) "commission" means the state game commission;

(3) "conveyance" means a motor vehicle, vessel, trailer or any associated equipment or containers,

including, but not limited to, live wells, fish-hauling tanks, ballast tanks, motorized skis and bilge areas that may contain or carry an aquatic invasive species or any other equipment by which aquatic invasive species may be introduced into an aquatic ecosystem;

(4) "decontaminate" means to wash, drain, dry or otherwise treat a conveyance in accordance with guidelines established by the director in order to remove or destroy an aquatic invasive species;

(5) "director" means the director of the department of game and fish;

(6) "equipment" means an article, a tool, an implement, a device or a piece of clothing, including boots and waders, that is capable of containing or transporting water;

(7) "infested water" means a geographic region, water body or water supply system or facility within the state that the director, after consulting with the secretary of energy, minerals and natural resources and with the concurrence of the director of the New Mexico department of agriculture, identifies as carrying or containing an aquatic invasive species;

(8) "inspect" means to examine a conveyance or equipment to determine whether an aquatic invasive species is present;

(9) "law enforcement officer" means a state or federal certified law enforcement officer;

(10) "trained personnel" means individuals who have successfully completed the United States fish and wildlife service's aquatic invasive species watercraft inspection and decontamination training, level I or level II;

(11) "warning tag" means a tag that is affixed to equipment or a conveyance upon the equipment or conveyance leaving an infested water or upon an inspection determining that the equipment or conveyance contains an aquatic invasive species that requires the equipment or conveyance to be decontaminated; and

(12) "water body" means a natural or impounded surface water, including a stream, river, spring, lake, reservoir, pond, wetland, tank or fountain."

Section 2. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

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