

Utah AIS Statutes

Utah. Code Tit. 23, Ch. 27 (Aquatic Invasive Species Interdiction Act)

§ 23-27-101. Title

This chapter is known as the “Aquatic Invasive Species Interdiction Act.”

§ 23-27-102. Definitions

As used in this chapter:

- (1) “Board” means the Wildlife Board.
- (2)(a) “Conveyance” means a terrestrial or aquatic vehicle or a vehicle part that may carry or contain a Dreissena mussel.
 - (b) “Conveyance” includes a motor vehicle, a vessel, a motorboat, a sailboat, a personal watercraft, a container, a trailer, a live well, or a bilge area.
- (3) “Decontaminate” means to:
 - (a) drain and dry all non-treated water; and
 - (b) chemically or thermally treat in accordance with rule.
- (4) “Director” means the director of the division.
- (5) “Division” means the Division of Wildlife Resources.
- (6) “Dreissena mussel” means a mussel of the genus Dreissena at any life stage, including a zebra mussel, a quagga mussel, and Conrad's false mussel.
- (7) “Equipment” means an article, tool, implement, or device capable of carrying or containing:
 - (a) water; or
 - (b) a Dreissena mussel.
- (8) “Executive director” means the executive director of the Department of Natural Resources.
- (9) “Facility” means a structure that is located within or adjacent to a water body.
- (10) “Infested water” means a geographic region, water body, facility, or water supply system within or outside the state that the board identifies in rule as carrying or containing a Dreissena mussel.

(11) “Vessel” means the same as that term is defined in Section 73-18-2.

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

(13)(a) “Water supply system” means a system that treats, conveys, or distributes water for irrigation, industrial, waste water treatment, or culinary use.

(b) “Water supply system” includes a pump, canal, ditch, or pipeline.

(c) “Water supply system” does not include a water body.

§ 23-27-201. Invasive species prohibited--Administrative inspection authorized

(1) Except as authorized in this title or a board rule or order, a person may not:

(a) possess, import, export, ship, or transport a Dreissena mussel;

(b) release, place, plant, or cause to be released, placed, or planted a Dreissena mussel in a water body, facility, or water supply system; or

(c) transport a conveyance or equipment that has been in an infested water within the previous 30 days without decontaminating the conveyance or equipment.

(2) A person who violates Subsection (1):

(a) is strictly liable;

(b) is guilty of an infraction; and

(c) shall reimburse the state for all costs associated with detaining, quarantining, and decontaminating the conveyance or equipment.

(3) A person who knowingly or intentionally violates Subsection (1) is guilty of a class A misdemeanor.

(4) A person may not proceed past or travel through an inspection station or administrative checkpoint, as described in Section 23-27-301, while transporting a conveyance during an inspection station's or administrative checkpoint's hours of operations without presenting the conveyance for inspection.

(5) A person who violates Subsection (4) is guilty of a class B misdemeanor.

§ 23-27-202. Reporting of invasive species required

(1) A person who discovers a Dreissena mussel within this state or has reason to believe a Dreissena mussel may exist at a specific location shall immediately report the discovery to the division.

(2) A person who violates Subsection (1) is guilty of a class A misdemeanor.

§ 23-27-301. Division's power to prevent invasive species infestation

To eradicate and prevent the infestation of a Dreissena mussel, the division may:

(1)(a) establish inspection stations located at or along:

(i) highways, as defined in Section 72-1-102;

(ii) ports of entry, if the Department of Transportation authorizes the division to use the port of entry; and

(iii) publicly accessible:

(A) boat ramps; and

(B) conveyance launch sites; and

(b) temporarily stop, detain, and inspect a conveyance or equipment that:

(i) the division reasonably believes is in violation of Section 23-27-201;

(ii) the division reasonably believes is in violation of Section 23-27-306;

(iii) is stopped at an inspection station; or

(iv) is stopped at an administrative checkpoint;

(2) conduct an administrative checkpoint in accordance with Section 77-23-104;

(3) detain and quarantine a conveyance or equipment as provided in Section 23-27-302;

(4) order a person to decontaminate a conveyance or equipment; and

(5) inspect the following that may contain a Dreissena mussel:

(a) a water body;

(b) a facility; and

(c) a water supply system.

§ 23-27-302. Conveyance or equipment detainment or quarantine

(1) The division, a port-of-entry agent, or a peace officer may detain or quarantine a conveyance or equipment if:

(a) the division, agent, or peace officer:

(i) finds the conveyance or equipment contains a *Dreissena* mussel; or

(ii) reasonably believes that the person transporting the conveyance or equipment is in violation of Section 23-27-201; or

(b) the person transporting the conveyance or equipment refuses to submit to an inspection authorized by Section 23-27-301.

(2) The detainment or quarantine authorized by Subsection (1) may continue for:

(a) up to five days; or

(b) the period of time necessary to:

(i) decontaminate the conveyance or equipment; and

(ii) ensure that a *Dreissena* mussel is not living on or in the conveyance or equipment.

§ 23-27-303. Closing a water body, facility, or water supply system

(1) Except as provided by Subsection (6), if the division detects or suspects a *Dreissena* mussel is present in a water body, a facility, or a water supply system, the director or the director's designee may, with the concurrence of the executive director, order:

(a) the water body, facility, or water supply system closed to a conveyance or equipment;

(b) restricted access by a conveyance or equipment to a water body, facility, or water supply system; or

(c) a conveyance or equipment that is removed from or introduced to the water body, facility, or water supply system to be inspected, quarantined, or decontaminated in a manner and for a duration necessary to detect and prevent the infestation of a *Dreissena* mussel.

(2) If a closure authorized by Subsection (1) lasts longer than seven days, the division shall:

(a) provide a written update to the operator of the water body, facility, or water supply system every 10 days on the division's effort to address the *Dreissena* infestation; and

(b) post the update on the division's website.

(3)(a) The board shall develop procedures to ensure proper notification of a state, federal, or local agency that is affected by a Dreissena mussel infestation.

(b) The notification shall include:

(i) the reasons for the closure, quarantine, or restriction; and

(ii) methods for providing updated information to the agency.

(4) When deciding the scope, duration, level, and type of restriction or a quarantine or closure location, the director shall consult with the person with the jurisdiction, control, or management responsibility over the water body, facility, or water supply system to avoid or minimize disruption of economic and recreational activity.

(5)(a) A person that operates a water supply system shall cooperate with the division to implement a measure to:

(i) avoid infestation by a Dreissena mussel; and

(ii) control or eradicate a Dreissena mussel infestation that may occur in a water supply system.

(b)(i) If a Dreissena mussel is detected, the water supply system's operator, in cooperation with the division, shall prepare and implement a plan to control or eradicate a Dreissena mussel within the water supply system.

(ii) A plan required by Subsection (5)(b)(i) shall include a:

(A) method for determining the scope and extent of the infestation;

(B) method to control or eradicate the Dreissena mussel;

(C) method to decontaminate the water supply system containing the Dreissena mussel;

(D) systematic monitoring program to determine a change in the infestation; and

(E) requirement to update or revise the plan in conformity with a scientific advance in the method of controlling or eradicating a Dreissena mussel.

(6)(a) The division may not close or quarantine a water supply system if the operator has prepared and implemented a plan to control or eradicate a Dreissena mussel in accordance with Subsection (5).

(b)(i) The division may require the operator to update a plan.

(ii) If the operator fails to update or revise a plan, the division may close or quarantine the water supply system in accordance with this section.

§ 23-27-304. Aquatic invasive species fee

(1) (a) Except as provided in Subsection (1)(b), there is imposed an annual nonresident aquatic invasive species fee of \$20 on each vessel in order to launch or operate a vessel in waters of this state if:

- (i) the vessel is owned by a nonresident; and
- (ii) the vessel would otherwise be subject to registration requirements under Section 73-18-7 if the vessel were owned by a resident of this state.

(b) The provisions of Subsection (1)(a) do not apply if the vessel is owned and operated by a state or federal government agency and the vessel is used within the course and scope of the duties of the agency.

(c) The division shall administer and collect the fee described in Subsection (1)(a), and the fee shall be deposited into the Aquatic Invasive Species Interdiction Account created in Section 23-27-305.

(2) Before launching a vessel on the waters of this state, a nonresident shall pay the aquatic invasive species fee as described in Subsection (1), and the vessel owner shall successfully complete an aquatic invasive species education course offered by the division.

(3) (a) The division shall study options and feasibility of implementing an automated system capable of scanning, photographing, and providing real-time information regarding a conveyance's or equipment's:

- (i) last entry into a body of water; and
- (ii) last decontamination.

(b) The study described in Subsection (3)(a) shall evaluate the system's capability of:

- (i) operation with or without the use or supervision of personnel;
- (ii) operation 24 hours per day;
- (iii) capturing a state assigned number on a vessel or conveyance as described in Section 73-18-6;
- (iv) preserving photographic evidence of:
 - (A) a conveyance's state assigned bow number;
 - (B) a conveyance's or equipment's entry into a body of water, including the global positioning system location of where the conveyance is photographed; and
 - (C) decontamination of the conveyance or equipment;
- (v) identifying a conveyance or equipment not owned by a resident that is entering a body of water in this state; and
- (vi) collecting the fee described in Subsection (1).

(c) The division shall present a report of the study and findings described in Subsections (3)(a) and (b) to the Natural Resources, Agriculture, and Environment Interim Committee before November 30, 2020.

(d) Based on the findings of the study described in this Subsection (3), the division shall implement a pilot program to provide the services described in this Subsection (3) on or before May 1, 2021.

(4) The board may increase fees assessed under Subsection (1), so long as:

(a) the fee for nonresidents described in Subsection (1) is no less than the resident fee described in Section 73-18-26; and

(b) the fee is confirmed in the legislative fee schedule.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board may make rules establishing procedures for:

(a) proof of payment and other methods of verifying compliance with this section;

(b) special requirements applicable on interstate water bodies in this state; and

(c) other provisions necessary for the administration of the program.

§ 23-27-305. Aquatic Invasive Species Interdiction Account

(1) There is created within the General Fund a restricted account known as the Aquatic Invasive Species Interdiction Account.

(2) The restricted account shall consist of:

(a) nonresident aquatic invasive species fees collected under Section 23-27-304;

(b) resident aquatic invasive species fees collected under Section 73-18-26; and

(c) any other amount deposited in the restricted account from donations, appropriations, contractual agreements, and accrued interest.

(3) Upon appropriation, the division shall use the fees collected under Sections 23-27-305 and 73-18-26 and deposited in the Aquatic Invasive Species Account to fund aquatic invasive species prevention and containment efforts.

§ 23-27-306. Removal of drain plug or similar device during transport

(1) Before transporting a conveyance on a highway, as defined in Section 72-1-102, in the state, a person shall:

(a) remove the plugs and similar devices that prevent drainage of raw water systems on the conveyance; and

(b) to the extent feasible, drain all water from live wells, bilges, ballast tanks, or similar compartments on the conveyance.

(2) A person who fails to comply with Subsection (1) is guilty of a class C misdemeanor.

§ 23-27-401. Rulemaking authority

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board may make rules that:

(1) establish the procedures and requirements for decontaminating a conveyance or equipment to prevent the introduction and infestation of a Dreissena mussel;

(2) establish the requirements necessary to provide proof that a conveyance or equipment is decontaminated;

(3) establish the notification procedures required in Section 23-27-303;

(4) identify the geographic area, water body, facility, or water supply system that is infested by Dreissena mussels;

(5) establish a procedure and protocol in cooperation with the Department of Transportation for stopping, inspecting, detaining, and decontaminating a conveyance or equipment at a port-of-entry in accordance with Section 23-27-301; and

(6) are necessary to administer and enforce the provisions of this chapter.

§ 23-27-501. Aquatic Invasive Species Emergency Response Plan

(1) As used in this section:

(a) “Committee” means the Natural Resources, Agriculture, and Environment Interim Committee.

(b) “Emergency response plan” means the statewide aquatic invasive species emergency response plan developed by the division in accordance with this part.

(2) The division shall develop a statewide aquatic invasive species emergency response plan to address the potential spread of aquatic invasive species throughout the state.

(3) In developing the emergency response plan, the division shall coordinate with public and private entities that may be necessary or helpful to remediating the potential spread of aquatic invasive species throughout the state.

(4) The emergency response plan shall:

- (a) designate the division as the entity that will coordinate the implementation of the emergency response plan;
 - (b) provide for annual review of the emergency response plan by the division;
 - (c) provide that the emergency response plan may only be implemented if the division detects aquatic invasive species, including *Dreissena* mussels, at a water body, facility, or water supply system within the state; and
 - (d) define what constitutes a detection of aquatic invasive species at a water body, facility, or water supply system.
- (5) On or before August 1, 2021, the division shall submit to the committee the following:
- (a) the emergency response plan;
 - (b) proposed legislation that may be necessary to effectuate the emergency response plan or to increase the effectiveness of the emergency response plan; and
 - (c) an analysis and estimate of the cost to implement the emergency response plan.
- (6) After receiving the items described in Subsection (5), the committee may:
- (a) recommend to the Legislature that the plan be implemented;
 - (b) return the plan to the division for further study and evaluation;
 - (c) draft legislation proposed or requested by the division; or
 - (d) take action to further the funding of the emergency response plan.
- (7) If an event requires the implementation of the emergency response plan, the division shall report on that event and the implementation of the emergency response plan to the committee.

Utah. Code Tit. 73, Ch. 18 (State Boating Act)

§ 73-18-26. Resident aquatic invasive species fee--Amount--Deposit

- (1) In addition to the registration fee imposed under Section 73-18-7, there is imposed an annual resident aquatic invasive species fee of \$10 on a motorboat or sailboat required to be registered under Section 73-18-7.
- (2) The fee imposed under Subsection (1) shall be deposited into the Aquatic Invasive Species Interdiction Account created in Section 23-27-305.