

Amendment No. 879

Senate Amendment to Assembly Bill No. 167 First Reprint (BDR 45-847)

Proposed by: Senate Committee on Natural Resources

Amends: Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes

Adoption of this amendment will MAINTAIN the 2/3s majority vote requirement for final passage of A.B. 167 (§ 6).

ASSEMBLY ACTION		Initial and Date		SENATE ACTION		Initial and Date	
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>

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 underlining* is newly added transitory language.

CAF/JRS



Date: 6/2/2011

A.B. No. 167—Enacts provisions for the protection of the waters of this State from aquatic invasive species. (BDR 45-847)



ASSEMBLY BILL NO. 167—ASSEMBLYMEN BUSTAMANTE
ADAMS, BOBZIEN; GOICOECHEA, GRADY AND HARDY

FEBRUARY 16, 2011

JOINT SPONSORS: SENATORS LEE; AND MANENDO

Referred to Committee on Natural Resources,
Agriculture, and Mining

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

FISCAL NOTE: 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.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to aquatic species; prohibiting a person from introducing certain aquatic species into the waters of this State; providing for the inspection of vessels for aquatic invasive species; requiring vessels to be inspected for the presence of aquatic invasive species before being operated on the waters of this State; requiring decontamination of any vessels where an aquatic invasive species is present; authorizing the impoundment or quarantine of certain vessels; requiring an aquatic invasive species fee to be paid by all operators of vessels; providing a civil penalty; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law makes it a misdemeanor for any person to introduce any aquatic life into this State without the permission of the Department of Wildlife. Existing law also authorizes the Board of Wildlife Commissioners to prohibit the importation, transportation or possession of any species of wildlife that the Commission deems detrimental to the wildlife or the habitat of the wildlife in this State. (NRS 503.597) **Section 2** of this bill makes it a misdemeanor for a first offense and a category E felony for any subsequent offense to knowingly or intentionally introduce any aquatic species which may be detrimental to the aquatic resources, aquatic species or water resources of this State. **Section 2** also provides for an additional civil penalty of not less than \$25,000 and not more than \$250,000 for anyone convicted of such introduction.

Section 4 of this bill authorizes the Department to set up inspection stations for vessels operating on the waters of this State to inspect such vessels for aquatic invasive species and prohibits any person from operating a vessel without first complying with the inspection program. **Section 4** also prohibits any person operating a vessel from leaving an impaired

body of water and entering another body of water in this State without first having the vessel decontaminated. In addition, **section 4** allows a peace officer to inspect a vessel at any point if the peace officer has a reasonable belief based on articulable facts that an aquatic invasive species may be present on the vessel. Finally, if a person refuses to comply with a peace officer or the requirements of an inspection station, **section 4** allows the person's vessel to be impounded or quarantined. **Section 5** of this bill authorizes a peace officer to keep a vessel in impound or quarantine until it has been decontaminated or shown to be in compliance with the requirements of the Department.

Section 6 of this bill requires the Commission to establish an annual aquatic invasive species fee, ~~which must not exceed \$10, ~~and~~ for a motorboat owned or operated by a resident of this State and \$5 for any other vessel owned or operated by a resident of this State. The fee must be \$20 for a motorboat owned or operated by a nonresident of this State and \$10 for any other vessel owned or operated by a nonresident of this State.~~ **Section 6** also requires the Department to issue an aquatic invasive species decal as evidence of payment ~~of the aquatic invasive species fee.~~ **Section 6** prohibits any person from operating a vessel on the waters of this State without first paying the fee and attaching the decal to his or her vessel as proof of payment.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 501.356 is hereby amended to read as follows:
501.356 1. Money received by the Department from:
(a) The sale of licenses;
(b) Fees pursuant to the provisions of NRS 488.075 and 488.1795;
(c) Remittances from the State Treasurer pursuant to the provisions of NRS 365.535;
(d) Appropriations made by the Legislature; and
(e) All other sources, except money derived from the forfeiture of any property described in NRS 501.3857 or money deposited in the Wildlife Heritage Trust Account pursuant to NRS 501.3575 or in the Trout Management Account pursuant to NRS 502.327,
must be deposited with the State Treasurer for credit to the Wildlife Account in the State General Fund.
2. The interest and income earned on the money in the Wildlife Account, after deducting any applicable charges, must be credited to the Account.
3. Except as otherwise provided in subsection 4 ~~and~~ **NRS 503.597**, the Department may use money in the Wildlife Account only to carry out the provisions of this title and chapter 488 of NRS and as provided in NRS 365.535, and the money must not be diverted to any other use.
4. Except as otherwise provided in NRS 502.250 and 504.155, all fees for the sale or issuance of stamps, tags, permits and licenses that are required to be deposited in the Wildlife Account pursuant to the provisions of this title and any matching money received by the Department from any source must be accounted for separately and must be used:
(a) Only for the management of wildlife; and
(b) If the fee is for the sale or issuance of a license, permit or tag other than a tag specified in subsection 5 or 6 of NRS 502.250, under the guidance of the Commission pursuant to subsection 2 of NRS 501.181.
Sec. 2. NRS 503.597 is hereby amended to read as follows:
503.597 1. Except as otherwise provided in this section, it is unlawful, except by the written consent and approval of the Department, for any person at

1 anytime to receive, bring or have brought or shipped into this State, or remove from
2 one stream or body of water in this State to any other, or from one portion of the
3 State to any other, or to any other state, any aquatic life or wildlife, or any spawn,
4 eggs or young of any of them.

5 2. The Department shall require an applicant to conduct an investigation to
6 confirm that such an introduction or removal will not be detrimental to the wildlife
7 or the habitat of wildlife in this State. Written consent and approval of the
8 Department may be given only if the results of the investigation prove that the
9 introduction, removal or importation will not be detrimental to existing aquatic life
10 or wildlife, or any spawn, eggs or young of any of them.

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

13 4. The Commission may adopt regulations to prohibit the importation,
14 transportation or possession of any species of wildlife which the Commission
15 deems to be detrimental to the wildlife or the habitat of the wildlife in this State.

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

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

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

22 6. *A court before whom a defendant is convicted of a violation of subsection*
23 *5 shall, for each violation, order the defendant to pay a civil penalty of at least*
24 *\$25,000 but not more than \$250,000. The money must be deposited into the*
25 *Wildlife Account in the State General Fund and used to:*

26 (a) *Remove the aquatic invasive species or injurious aquatic species;*

27 (b) *Reintroduce any game fish or other aquatic wildlife destroyed by the*
28 *aquatic invasive species or injurious aquatic species;*

29 (c) *Restore any habitat destroyed by the aquatic invasive species or injurious*
30 *aquatic species;*

31 (d) *Repair any other damage done to the waters of this State by the*
32 *introduction of the aquatic invasive species or injurious aquatic species; and*

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

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

36 (a) *Alternative livestock and products made therefrom* ~~[-]~~ ; or

37 (b) *The introduction of any species by the Department for sport fishing or*
38 *other wildlife management programs.*

39 8. *As used in this section:*

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

44 (b) *“Injurious aquatic species” means an aquatic species which the*
45 *Commission has determined to be a threat to sensitive, threatened or endangered*
46 *aquatic species or game fish or to the habitat of sensitive, threatened or*
47 *endangered aquatic species or game fish by any means, including, without*
48 *limitation:*

49 (1) *Predation;*

50 (2) *Parasitism;*

51 (3) *Interbreeding; or*

52 (4) *The transmission of disease.*

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

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

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

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

9 (c) *Leave an impaired body of water in this State or any other state after*
10 *operating a vessel on that impaired body of water and launch the vessel on any*
11 *other body of water in this State without first decontaminating the vessel and any*
12 *conveyance used on the impaired body of water.*

13 2. *In addition to any inspection conducted pursuant to NRS 488.900, each*
14 *owner, operator or person in control of a vessel or conveyance shall stop at any*
15 *mandatory inspection station for aquatic invasive species authorized by the*
16 *Department. If a peace officer reasonably believes, based on articulable facts,*
17 *that an aquatic invasive species or aquatic plant material may be present on the*
18 *vessel or conveyance, the peace officer may:*

19 (a) *Require the owner, operator or person in control of the vessel or*
20 *conveyance to decontaminate the vessel or conveyance; or*

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

23 3. *A peace officer may stop and inspect a vessel or conveyance for the*
24 *presence of aquatic invasive species or aquatic plant material, or for proof of a*
25 *required inspection:*

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

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

29 (c) *If the vessel or conveyance is visibly transporting any aquatic invasive*
30 *species or aquatic plant material; or*

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

33 4. *If a peace officer conducts an inspection of a vessel or conveyance*
34 *pursuant to this section and determines that an aquatic invasive species or*
35 *aquatic plant material is present on the vessel or conveyance, the peace officer*
36 *may order the vessel or conveyance to be decontaminated.*

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

38 (a) *An inspection conducted pursuant to this section indicates the presence*
39 *of an aquatic invasive species or aquatic plant material on the vessel or*
40 *conveyance; or*

41 (b) *The owner, operator or person in control of the vessel or conveyance*
42 *refuses to:*

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

44 (2) *Comply with an order issued pursuant to this section to*
45 *decontaminate his or her vessel or conveyance.*

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

49 **Sec. 5. 1.** *If a peace officer orders a vessel or conveyance to be*
50 *impounded or quarantined pursuant to section 4 of this act, the vessel or*
51 *conveyance may be impounded or quarantined for a reasonable period to ensure*
52 *that the vessel or conveyance is inspected and decontaminated and that any*
53 *aquatic invasive species or aquatic plant material is completely removed.*

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

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

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

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

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

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

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

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

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

4. The Commission shall establish by regulation an aquatic invasive species fee, which is:

(a) For a motorboat which is owned or operated by a person who is a resident of this State, must not exceed \$10 ~~15.00~~;

(b) For a vessel, other than a motorboat, which is owned or operated by a person who is a resident of this State, must not exceed \$5;

(c) For a motorboat which is owned or operated by a nonresident of this State, must be \$20; and

(d) For a vessel, other than a motorboat, which is owned or operated by a nonresident of this State, must be \$10.

5. The aquatic invasive species fee established pursuant to subsection 4 must be paid annually for the issuance of an aquatic invasive species decal. The fee must be deposited in the Wildlife Account in the State General Fund and used by the Department for enforcement of this section, NRS 503.597 and sections 4 and 5 of this act and for education about and management of aquatic invasive species.

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

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

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

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

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

~~[2.]~~ 4. "Conveyance" means a motor vehicle, trailer or any other equipment used to transport a vessel or containers or devices used to haul water on a vessel that may contain or carry an aquatic invasive species or aquatic plant material.

5. "Decontaminate" means eliminate any aquatic invasive species on a vessel or conveyance in a manner specified by the Commission which may include, without limitation, washing the vessel or conveyance, draining the water in the vessel or conveyance, drying the vessel or conveyance or chemically, thermally or otherwise treating the vessel or conveyance.

6. "Department" means the Department of Wildlife.

~~{3-}~~ 7. “Flat wake” means the condition of the water close astern a moving vessel that results in a flat wave disturbance.

~~{4-}~~ 8. “Interstate waters of this State” means waters forming the boundary between the State of Nevada and an adjoining state.

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

~~{6-}~~ 10. “Motorboat” means any vessel propelled by machinery, whether or not the machinery is the principal source of propulsion.

~~{7-}~~ 11. “Operate” means to navigate or otherwise use a motorboat or a vessel.

~~{8-}~~ 12. “Owner” means:

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

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

➤ “Owner” does not include a person defined as a “legal owner” under subsection ~~{5-}~~ 9.

~~{9-}~~ 13. “Prohibited substance” has the meaning ascribed to it in NRS 484C.080.

~~{10-}~~ 14. “Registered owner” means the person registered by the Commission as the owner of a vessel.

~~{11-}~~ 15. A vessel is “under way” if it is adrift, making way or being propelled, and is not aground, made fast to the shore, or tied or made fast to a dock or mooring.

~~{12-}~~ 16. “Vessel” means every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

~~{13-}~~ 17. “Waters of this State” means any waters within the territorial limits of this State.

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

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

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

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

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

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

Less than 13 feet.....	\$20
13 feet or more but less than 18 feet.....	25
18 feet or more but less than 22 feet.....	40
22 feet or more but less than 26 feet.....	55
26 feet or more but less than 31 feet.....	75
31 feet or more	100

1 Except as otherwise provided in this subsection, all fees received by the
2 Department under the provisions of this chapter must be deposited in the Wildlife
3 Account in the State General Fund and , *except as otherwise provided in section 6*
4 *of this act*, may be expended only for the administration and enforcement of the
5 provisions of this chapter. On or before December 31 of each year, the Department
6 shall deposit with the respective county school districts 50 percent of each fee
7 collected according to the motorboat's length for every motorboat registered from
8 their respective counties. Upon receipt of the application in approved form, the
9 Department shall enter the application upon the records of its office and issue to the
10 applicant a certificate of number stating the number awarded to the motorboat, a
11 certificate of ownership stating the same information and the name and address of
12 the registered owner and the legal owner.

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

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

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

24 6. The Commission shall provide by regulation for the issuance of numbers to
25 manufacturers and dealers which may be used interchangeably upon motorboats
26 operated by the manufacturers and dealers in connection with the demonstration,
27 sale or exchange of those motorboats. The amount of the fee for each such a
28 number is \$20.

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

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

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

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

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