
Senate Engrossed House Bill

State of Arizona
House of Representatives
Forty-ninth Legislature
First Regular Session
2009

CHAPTER 77

HOUSE BILL 2157

AN ACT

AMENDING SECTION 5-323, ARIZONA REVISED STATUTES; AMENDING TITLE 17, CHAPTER 2, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 3.1; RELATING TO GAME AND FISH.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 5-323, Arizona Revised Statutes, is amended to read:

5-323. Disposition of fees

Each month monies received from the registration fees received under this chapter for the numbering of watercraft shall be deposited, pursuant to sections 35-146 and 35-147, in a fund designated as the watercraft registration fee clearing account. Each month, on notification by the department, the state treasurer shall distribute the monies in the clearing account as follows:

1. All revenues collected from the registration fees collected pursuant to section 5-321, subsection A, paragraphs 1 and 2 shall be allocated as follows:
 - (a) Sixty-five per cent shall be deposited in a special fund to be known as the watercraft licensing fund. The watercraft licensing fund is to be used by the department for administering and enforcing this chapter, ~~and~~ providing an information and education program relating to boating and boating safety **AND ADMINISTERING ANY AQUATIC INVASIVE SPECIES PROGRAM ESTABLISHED UNDER THIS TITLE OR TITLE 17**. These monies are subject to legislative appropriation.
 - (b) Thirty-five per cent of such revenues shall be further allocated as follows:
 - (i) Fifteen per cent to the state lake improvement fund to be used as prescribed by section 5-382.
 - (ii) Eighty-five per cent to the law enforcement and boating safety fund to be used as prescribed by section 5-383.

2. All revenues collected from any additional registration fees collected pursuant to section 5-321, subsection C shall be paid to an account designated by a multi-county water conservation district established under title 48, chapter 22 to be used solely for the lower Colorado river multispecies conservation program and for no other purpose.

Sec. 2. Title 17, chapter 2, Arizona Revised Statutes, is amended by adding article 3.1, to read:

ARTICLE 3.1. AQUATIC INVASIVE SPECIES

17-255. Definition of aquatic invasive species

IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES, "AQUATIC INVASIVE SPECIES":

1. MEANS ANY AQUATIC SPECIES THAT IS NOT NATIVE TO THE ECOSYSTEM UNDER CONSIDERATION AND WHOSE INTRODUCTION OR PRESENCE IN THIS STATE MAY CAUSE ECONOMIC OR ENVIRONMENTAL HARM OR HARM TO HUMAN HEALTH.

2. DOES NOT INCLUDE:

(a) ANY NONINDIGENOUS SPECIES LAWFULLY OR HISTORICALLY INTRODUCED INTO THIS STATE FOR SPORT FISHING RECREATION.

(b) ANY SPECIES INTRODUCED INTO THIS STATE BY THE DEPARTMENT, BY OTHER GOVERNMENTAL ENTITIES OR BY ANY PERSON PURSUANT TO THIS TITLE.

17-255.01. Aquatic invasive species program; powers

A. THE DIRECTOR MAY ESTABLISH AND MAINTAIN AN AQUATIC INVASIVE SPECIES PROGRAM.

B. THE DIRECTOR MAY ISSUE ORDERS:

1. ESTABLISHING A LIST OF AQUATIC INVASIVE SPECIES FOR THIS STATE.

2. ESTABLISHING A LIST OF WATERS OR LOCATIONS WHERE AQUATIC INVASIVE SPECIES ARE PRESENT AND TAKE STEPS THAT ARE NECESSARY TO ERADICATE, ABATE OR PREVENT THE SPREAD OF AQUATIC INVASIVE SPECIES WITHIN OR FROM THOSE BODIES OF WATER.

3. ESTABLISHING MANDATORY CONDITIONS AS PROVIDED IN SUBSECTION C OF THIS SECTION ON THE MOVEMENT OF WATERCRAFT, VEHICLES, CONVEYANCES OR OTHER EQUIPMENT FROM WATERS OR LOCATIONS WHERE AQUATIC INVASIVE SPECIES ARE PRESENT TO OTHER WATERS.

C. IF THE PRESENCE OF AN AQUATIC INVASIVE SPECIES IS SUSPECTED OR DOCUMENTED IN THIS STATE, THE DIRECTOR OR AN AUTHORIZED EMPLOYEE OR AGENT OF THE DEPARTMENT MAY TAKE ONE OR MORE OF THE FOLLOWING ACTIONS TO ABATE OR ELIMINATE THE SPECIES:

1. AUTHORIZE AND ESTABLISH LAWFUL INSPECTIONS OF WATERCRAFT, VEHICLES, CONVEYANCES AND OTHER EQUIPMENT TO LOCATE THE AQUATIC INVASIVE SPECIES.

2. ORDER ANY PERSON WITH AN AQUATIC INVASIVE SPECIES IN OR ON THE PERSON'S WATERCRAFT, VEHICLE, CONVEYANCE OR OTHER EQUIPMENT TO DECONTAMINATE THE WATERCRAFT, VEHICLE, CONVEYANCE OR EQUIPMENT IN A MANNER PRESCRIBED BY RULE. NOTWITHSTANDING PARAGRAPH 3 OF THIS SUBSECTION, MANDATORY ON-SITE

DECONTAMINATION SHALL NOT BE REQUIRED AT A LOCATION WHERE AN ON-SITE CLEANING STATION CHARGES A FEE.

3. REQUIRE ANY PERSON WITH A WATERCRAFT, VEHICLE, CONVEYANCE OR OTHER EQUIPMENT IN WATERS OR LOCATIONS WHERE AN AQUATIC INVASIVE SPECIES IS PRESENT TO DECONTAMINATE THE PROPERTY BEFORE MOVING IT TO ANY OTHER WATERS IN THIS STATE OR ANY OTHER LOCATION IN THIS STATE WHERE AQUATIC INVASIVE SPECIES COULD THRIVE.

D. AN ORDER ISSUED UNDER SUBSECTION B OR C OF THIS SECTION IS EXEMPT FROM TITLE 41, CHAPTER 6, ARTICLE 3, EXCEPT THAT THE DIRECTOR SHALL PROMPTLY FILE A COPY OF THE ORDER WITH THE SECRETARY OF STATE FOR PUBLICATION IN THE ARIZONA ADMINISTRATIVE REGISTER PURSUANT TO SECTION 41-1013.

17-255.02. Prohibitions

EXCEPT AS AUTHORIZED BY THE COMMISSION, A PERSON SHALL NOT:

1. POSSESS, IMPORT, SHIP OR TRANSPORT INTO OR WITHIN THIS STATE, OR CAUSE TO BE IMPORTED, SHIPPED OR TRANSPORTED INTO OR WITHIN THIS STATE, AN AQUATIC INVASIVE SPECIES.
2. NOTWITHSTANDING SECTION 17-255.04, SUBSECTION A, PARAGRAPH 4, RELEASE, PLACE OR PLANT, OR CAUSE TO BE RELEASED, PLACED OR PLANTED, AN AQUATIC INVASIVE SPECIES INTO WATERS IN THIS STATE OR INTO ANY WATER TREATMENT FACILITY, WATER SUPPLY OR WATER TRANSPORTATION FACILITY, DEVICE OR MECHANISM IN THIS STATE.
3. NOTWITHSTANDING SECTION 17-255.04, SUBSECTION A, PARAGRAPH 4, PLACE IN ANY WATERS OF THIS STATE ANY EQUIPMENT, WATERCRAFT, VESSEL, VEHICLE OR CONVEYANCE THAT HAS BEEN IN ANY WATER OR LOCATION WHERE AQUATIC INVASIVE SPECIES ARE PRESENT WITHIN THE PRECEDING THIRTY DAYS WITHOUT FIRST DECONTAMINATING THE EQUIPMENT, WATERCRAFT, VESSEL, VEHICLE OR CONVEYANCE.
4. SELL, PURCHASE, BARTER OR EXCHANGE IN THIS STATE AN AQUATIC INVASIVE SPECIES.

17-255.03. Violations: civil penalties: classification: cost recovery

A. EXCEPT AS OTHERWISE PROVIDED BY THIS SECTION, A PERSON WHO VIOLATES THIS ARTICLE IS SUBJECT TO A CIVIL PENALTY OF NOT MORE THAN FIVE HUNDRED DOLLARS.

B. A PERSON WHO KNOWINGLY VIOLATES SECTION 17-255.02, PARAGRAPH 2 OR 4 IS GUILTY OF A CLASS 2 MISDEMEANOR. IN ADDITION, THE COMMISSION, OR ANY OFFICER CHARGED WITH ENFORCING THIS ARTICLE IF DIRECTED BY THE COMMISSION, MAY BRING A CIVIL ACTION IN THE NAME OF THIS STATE TO RECOVER DAMAGES AND COSTS AGAINST A PERSON WHO VIOLATES SECTION 17-255.02, PARAGRAPH 2 OR 4. DAMAGES AND COSTS RECOVERED PURSUANT TO THIS SUBSECTION SHALL BE DEPOSITED IN THE GAME AND FISH FUND.

C. THE COURT SHALL ORDER A PERSON FOUND IN VIOLATION OF SECTION 17-255.01, SUBSECTION C, PARAGRAPH 2 TO PAY TO THIS STATE ALL COSTS NOT EXCEEDING FIFTY DOLLARS INCURRED BY THIS STATE TO DECONTAMINATE ANY WATERCRAFT, VEHICLE, CONVEYANCE OR OTHER EQUIPMENT ON WHICH AQUATIC INVASIVE SPECIES WERE PRESENT. MONIES PAID PURSUANT TO THIS SUBSECTION SHALL BE DEPOSITED IN THE GAME AND FISH FUND.

D. THIS SECTION APPLIES REGARDLESS OF WHETHER THE DIRECTOR ESTABLISHES AN AQUATIC INVASIVE SPECIES PROGRAM PURSUANT TO SECTION 17-255.01.

17-255.04. Applicability; no private right of action

A. THIS ARTICLE DOES NOT APPLY TO THE OWNER OR OPERATOR OF:

1. ANY SYSTEM OF CANALS, LATERALS OR PIPES, ANY RELATED OR ANCILLARY FACILITIES, FIXED EQUIPMENT AND STRUCTURES RELATED TO THE DELIVERY OF WATER AND ANY DISCHARGES FROM THE SYSTEM.
2. ANY WATER TREATMENT OR DISTRIBUTION FACILITY SYSTEM, ANY RELATED OR ANCILLARY FACILITIES, FIXED EQUIPMENT AND STRUCTURES AND ANY DISCHARGES FROM THE SYSTEM.
3. ANY DRAINAGE, WASTEWATER COLLECTION, TREATMENT OR DISPOSAL FACILITY SYSTEM, ANY RELATED OR ANCILLARY FACILITIES, FIXED EQUIPMENT AND STRUCTURES AND ANY DISCHARGES FROM THE SYSTEM.
4. A PUBLIC OR PRIVATE AQUARIUM AND EDUCATION OR RESEARCH INSTITUTION HOLDING A PERMIT PURSUANT TO SECTION 17-238 OR 17-306.
5. ANY STOCK PONDS OR LIVESTOCK WATER FACILITIES OR DISTRIBUTION FACILITIES, INCLUDING FIXED EQUIPMENT AND STRUCTURES RELATED TO THE DELIVERY OF WATER AND ANY DISCHARGES FROM THE SYSTEM.

B. THE DIRECTOR MAY CONSULT WITH THE ENTITIES LISTED IN SUBSECTION A OF THIS SECTION TO ASSIST IN THE IMPLEMENTATION OF THIS ARTICLE.

C. THIS ARTICLE DOES NOT CREATE ANY EXPRESS OR IMPLIED PRIVATE RIGHT OF ACTION AND MAY BE ONLY ENFORCED BY THIS STATE.

APPROVED BY THE GOVERNOR JULY 10, 2009.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JULY 10, 2009.