



SB 215- INVASIVE AQUATIC SPECIES: MUSSELS

SUMMARY OF THE BILL

Deletes provisions sent to expire on January 1, 2012 and allows continuation of existing laws to generally prohibit a person from possessing, importing, shipping, or transporting in the state, or from placing, planting, or causing to be placed or planted in any water within the state, dreissenid mussels, and authorizes the Director of Fish and Game or his or her designee to engage in various enforcement activities. Provides that a person who violates, resists, delays, obstructs, or interferes with the implementation of these provisions is subject to a penalty in an amount not to exceed \$1,000 that is imposed administratively by the department. Existing law exempts certain entities from enforcement activities, or from civil or criminal liability, under prescribed circumstances.

RECOMMENDED ACTION: Support Support

REASON FOR RECOMMENDATION/IMPACT TO COUNTY

Proposed Bill helps strengthen the invasive mussel prevention program statewide. Allows Department of Fish and Game to enforce prohibitions from transport of these mussels and compliments County efforts at Lake Cachuma.

POSSIBLE SUPPORTERS

Other Counties, Cities, Water Districts, and other Lake operators.

POSSIBLE OPPOSITION

None/ Known

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Introduced by Senator HuffFebruary 9, 2011

An act to amend Section 2301 of the Fish and Game Code, relating to invasive aquatic species.

LEGISLATIVE COUNSEL'S DIGEST

SB 215, as introduced, Huff. Invasive aquatic species: mussels.

Existing law generally prohibits a person from possessing, importing, shipping, or transporting in the state, or from placing, planting, or causing to be placed or planted in any water within the state, dreissenid mussels, and authorizes the Director of Fish and Game or his or her designee to engage in various enforcement activities. Existing law provides that a person who violates or resists, delays, obstructs, or interferes with the implementation of these provisions is subject to a penalty, in an amount not to exceed \$1,000, that is imposed administratively by the department. Existing law exempts certain entities from enforcement activities, or from civil or criminal liability, under prescribed circumstances. These provisions are repealed on January 1, 2012.

This bill would delete that repeal provision, thereby extending the operation of these provisions indefinitely.

Under existing law, a violation of these provisions is a crime. By extending the operation of these provisions, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2301 of the Fish and Game Code is
2 amended to read:

3 2301. (a) (1) Except as authorized by the department, a person
4 shall not possess, import, ship, or transport in the state, or place,
5 plant, or cause to be placed or planted in any water within the state,
6 dreissenid mussels.

7 (2) The director or his or her designee may do all of the
8 following:

9 (A) Conduct inspections of conveyances, which include vehicles,
10 boats and other watercraft, containers, and trailers, that may carry
11 or contain adult or larval dreissenid mussels. Included as part of
12 this authority to conduct inspections is the authority to temporarily
13 stop conveyances that may carry or contain adult or larval
14 dreissenid mussels on any roadway or waterway in order to conduct
15 inspections.

16 (B) Order that areas in a conveyance that contain water be
17 drained, dried, or decontaminated pursuant to procedures approved
18 by the department.

19 (C) Impound or quarantine conveyances in locations designated
20 by the department for up to five days or the period of time
21 necessary to ensure that dreissenid mussels can no longer live on
22 or in the conveyance.

23 (D) (i) Conduct inspections of waters of the state and facilities
24 located within waters of the state that may contain dreissenid
25 mussels. If dreissenid mussels are detected or may be present, the
26 director or his or her designee may order the affected waters or
27 facilities closed to conveyances or otherwise restrict access to the
28 affected waters or facilities, and shall order that conveyances
29 removed from, or introduced to, the affected waters or facilities
30 be inspected, quarantined, or disinfected in a manner and for a
31 duration necessary to detect and prevent the spread of dreissenid
32 mussels within the state.

33 (ii) For the purpose of implementing clause (i), the director or
34 his or her designee shall order the closure or quarantine of, or
35 restrict access to, these waters, areas, or facilities in a manner and

1 duration necessary to detect and prevent the spread of dreissenid
2 mussels within the state. No closure, quarantine, or restriction shall
3 be authorized by the director or his or her designee without the
4 concurrence of the Secretary of the Natural Resources Agency. If
5 a closure lasts longer than seven days, the department shall update
6 the operator of the affected facility every 10 days on efforts to
7 address the dreissenid infestation. The department shall provide
8 these updates in writing and also post these updates on the
9 department's Internet Web site in an easily accessible manner.

10 (iii) The department shall develop procedures to ensure proper
11 notification of affected local and federal agencies, and, as
12 appropriate, the Department of Boating and Waterways, the
13 Department of Water Resources, the Department of Parks and
14 Recreation, and the State Lands Commission in the event of a
15 decision to close, quarantine, or restrict a facility pursuant to this
16 paragraph. These procedures shall include the reasons for the
17 closure, quarantine, or restriction, and methods for providing
18 updated information to those affected. These procedures shall also
19 include protocols for the posting of the notifications on the
20 department's Internet Web site required by clause (ii).

21 (iv) When deciding the scope, duration, level, and type of
22 restrictions, and specific location of a closure or quarantine, the
23 director shall consult with the agency, entity, owner, or operator
24 with jurisdiction, control, or management responsibility over the
25 marina, boat launch facility, or other facility, in order to focus the
26 closure or quarantine to specific areas and facilities so as to avoid
27 or minimize disruption of economic or recreational activity in the
28 vicinity.

29 (b) (1) Upon a determination by the director that it would further
30 the purposes of this section, other state agencies, including, but
31 not limited to, the Department of Parks and Recreation, the
32 Department of Water Resources, the Department of Food and
33 Agriculture, and the State Lands Commission, may exercise the
34 authority granted to the department in subdivision (a).

35 (2) A determination made pursuant to paragraph (1) shall be in
36 writing and shall remain in effect until withdrawn, in writing, by
37 the director.

38 (c) (1) Except as provided in paragraph (2), Division 13
39 (commencing with Section 21000) of the Public Resources Code
40 does not apply to the implementation of this section.

1 (2) An action undertaken pursuant to subparagraph (B) of
2 paragraph (2) of subdivision (a) involving the use of chemicals
3 other than salt or hot water to decontaminate a conveyance or a
4 facility is subject to Division 13 (commencing with Section 21000)
5 of the Public Resources Code.

6 (d) (1) A public or private agency that operates a water supply
7 system shall cooperate with the department to implement measures
8 to avoid infestation by dreissenid mussels and to control or
9 eradicate any infestation that may occur in a water supply system.
10 If dreissenid mussels are detected, the operator of the water supply
11 system, in cooperation with the department, shall prepare and
12 implement a plan to control or eradicate dreissenid mussels within
13 the system. The approved plan shall contain the following
14 minimum elements:

15 (A) Methods for delineation of infestation, including both adult
16 mussels and veligers.

17 (B) Methods for control or eradication of adult mussels and
18 decontamination of water containing larval mussels.

19 (C) A systematic monitoring program to determine any changes
20 in conditions.

21 (D) The requirement that the operator of the water supply system
22 permit inspections by the department as well as cooperate with the
23 department to update or revise control or eradication measures in
24 the approved plan to address scientific advances in the methods
25 of controlling or eradicating mussels and veligers.

26 (2) If the operator of water delivery and storage facilities for
27 public water supply purposes has prepared, initiated, and is in
28 compliance with all the elements of an approved plan to control
29 or eradicate dreissenid mussels in accordance with paragraph (1),
30 the requirements of subdivision (a) do not apply to the operation
31 of those water delivery and storage facilities, and the operator is
32 not subject to any civil or criminal liability for the introduction of
33 dreissenid mussel species as a result of those operations. The
34 department may require the operator of a facility to update its plan,
35 and if the plan is not updated or revised as described in
36 subparagraph (D) of paragraph (1), subdivision (a) shall apply to
37 the operation of the water delivery and storage facilities covered
38 by the plan until the operator updates or revises the plan and
39 initiates and complies with all of the elements of the updated or
40 revised plan.

1 (e) Any entity that discovers dreissenid mussels within this state
2 shall immediately report the discovery to the department.

3 (f) (1) In addition to any other penalty provided by law, any
4 person who violates this section, any verbal or written order or
5 regulation adopted pursuant to this section, or who resists, delays,
6 obstructs, or interferes with the implementation of this section, is
7 subject to a penalty, in an amount not to exceed one thousand
8 dollars (\$1,000), that is imposed administratively by the
9 department.

10 (2) A penalty shall not be imposed pursuant to paragraph (1)
11 unless the department has adopted regulations specifying the
12 amount of the penalty and the procedure for imposing and
13 appealing the penalty.

14 (g) The department may adopt regulations to carry out this
15 section.

16 (h) Pursuant to Section 818.4 of the Government Code, the
17 department and any other state agency exercising authority under
18 this section shall not be liable with regard to any determination or
19 authorization made pursuant to this section.

20 ~~(i) This section shall remain in effect only until January 1, 2012,~~
21 ~~and as of that date is repealed, unless a later enacted statute, that~~
22 ~~is enacted before January 1, 2012, deletes or extends that date.~~

23 SEC. 2. No reimbursement is required by this act pursuant to
24 Section 6 of Article XIII B of the California Constitution because
25 the only costs that may be incurred by a local agency or school
26 district will be incurred because this act creates a new crime or
27 infraction, eliminates a crime or infraction, or changes the penalty
28 for a crime or infraction, within the meaning of Section 17556 of
29 the Government Code, or changes the definition of a crime within
30 the meaning of Section 6 of Article XIII B of the California
31 Constitution.