

1 AN ACT concerning harmful aquatic organisms.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 1. Short title. This Act may be cited as the
5 Harmful Aquatic Organisms Act.

6 Section 5. Definitions. In this Act:

7 "Aquatic macrophyte" means a macroscopic, non-woody plant
8 that is either a submerged, floating leafed, floating, or
9 emergent plant that naturally grows in water.

10 "Department" means the Department of Natural Resources.

11 "Director" means the Director of Natural Resources.

12 "Exotic species" means a wild animal species or aquatic
13 plant species that is not a native species.

14 "Eurasian water milfoil" means *Myriophyllum spicatum*.

15 "Harmful exotic species" means an exotic species that can
16 naturalize and that either (1) causes or may cause
17 displacement of, or otherwise threaten, native species in
18 their natural communities or (2) threatens or may threaten
19 natural resources or their use in this State.

20 "Infested waters" means waters of the State designated
21 as infested by the Director.

22 "Introduction" means the release or escape of an exotic
23 species into a free-living state.

24 "Native species" means an animal or plant species that is
25 naturally present and reproducing within this State or that
26 naturally expands from its historic range into this State.

27 "Naturalize" means to establish a self-sustaining
28 population of exotic species in the wild outside of its
29 natural range.

30 "Prohibited exotic species" means a harmful exotic
31 species that has been designated as a prohibited exotic

1 species in a rule adopted by the Director.

2 "Purple loosestrife" means *Lythrum salicaria*, *Lythrum*
3 *virgatum*, or combinations thereof.

4 "Regulated exotic species" means a harmful exotic species
5 that has been designated as a regulated exotic species in a
6 rule adopted by the Director.

7 "Transport" means to cause or attempt to cause a species
8 to be carried or moved into or within the State. "Transport"
9 includes accepting or receiving the species for
10 transportation or shipment. Transport does not include the
11 unintentional transport of a species within a water of the
12 State or to a connected water of the State where the species
13 being transported is already present.

14 "Unlisted exotic species" means an exotic species that
15 has not been designated as a prohibited exotic species, a
16 regulated exotic species, or an unregulated exotic species in
17 a rule adopted by the Director.

18 "Unregulated exotic species" means an exotic species that
19 has been designated as an unregulated exotic species in a
20 rule adopted by the Director.

21 "Watercraft" means a contrivance used or designed for
22 navigation on water. "Watercraft" includes seaplanes.

23 "Waters of the State" means all waters of Illinois under
24 the jurisdiction of the Department as provided in Section 5
25 of the Rivers, Lakes, and Streams Act.

26 "Wild animal" means a living creature, not human, wild by
27 nature, endowed with sensation and power of voluntary motion.

28 "Zebra mussel" means a species of the genus *Dreissena*.

29 Section 10. Harmful exotic species management program.

30 (a) The Director shall establish a statewide program to
31 prevent and curb the spread of harmful exotic species. The
32 program must provide for coordination among governmental
33 entities and private organizations to the extent that it is

1 practical. The Director shall seek available federal funding
2 and grants for the program.

3 (b) The program required in subsection (a) must include
4 specific programs to curb the spread and manage the growth
5 of purple loosestrife and Eurasian water milfoil. These
6 programs must include:

7 (1) compiling inventories and monitoring the growth
8 of purple loosestrife and Eurasian water milfoil in the
9 State, for which the Director may use volunteers;

10 (2) publishing and distributing of informational
11 materials to boaters and lakeshore property owners;

12 (3) carrying out cooperative research with the
13 University of Illinois and other public and private
14 research facilities to study the use of non-chemical
15 control methods, including biological control methods;
16 and

17 (4) managing the growth of Eurasian water milfoil
18 and purple loosestrife in coordination with appropriate
19 units of local government, special districts, and
20 lakeshore associations. Growth management plans must
21 include providing requested technical assistance.

22 The Directors of Agriculture and Transportation shall
23 cooperate with the Director to establish, implement, and
24 enforce the purple loosestrife and Eurasian water milfoil
25 program.

26 (c) The Director shall prepare a long-term plan, which
27 may include specific plans for individual species, for the
28 statewide management of harmful exotic species. The plan
29 must address:

30 (1) coordinated detection and prevention of
31 accidental introductions;

32 (2) coordinated dissemination of information about
33 harmful exotic species among resource management agencies
34 and organizations;

1 (3) a coordinated public education and awareness
2 campaign;

3 (4) coordinated control of selected harmful exotic
4 species on lands and public waters;

5 (5) participation by lakeshore associations, local
6 citizen groups, and units of local government in the
7 development and implementation of local management
8 efforts;

9 (6) a reasonable and workable inspection requirement
10 for watercraft and equipment, including watercraft and
11 equipment participating in organized events on the waters
12 of the State;

13 (7) the closing of points of access to infested
14 waters, if the Director determines it is necessary, for a
15 total of not more than 7 days for control or eradication
16 purposes;

17 (8) maintaining public accesses on infested waters
18 to be reasonably free of aquatic macrophytes; and

19 (9) giving notice to travelers of the penalties for
20 violation of laws relating to harmful exotic species.

21 (d) The Director shall authorize personnel to inspect,
22 for a minimum of 20,000 hours during each year, watercraft
23 and associated equipment, including weed harvesters, that
24 leave or are removed from waters of the State.

25 (e) The Director shall seek cooperation with other states
26 and governmental entities for the purposes of management
27 and control of harmful exotic species.

28 (f) On or before January 15 of each year, the Director
29 shall submit a report on harmful exotic species to the
30 General Assembly. The report must include:

31 (1) detailed information on expenditures for
32 administration, education, management, inspection, and
33 research;

34 (2) an analysis of the effectiveness of management

1 activities conducted in the State, including chemical
2 control, harvesting, educational efforts, and
3 inspections;

4 (3) information on the participation of other State
5 agencies, units of local government, and interest groups
6 in control efforts;

7 (4) information on management efforts in other
8 states;

9 (5) information on the progress made in the
10 management of each species; and

11 (6) an assessment of future management needs.

12 Section 15. Infested waters; restricted activities.

13 (a) The Director may designate any of the waters of the
14 State as an infested water if the Director determines that
15 the water contains a harmful exotic species that could spread
16 to other waters if use of the water and related activities
17 are not regulated to prevent this.

18 When determining which harmful exotic species comprise
19 infested waters, the Director shall consider:

20 (1) the extent of a species distribution within the
21 State;

22 (2) the likely means of spread of a species; and

23 (3) whether regulations specific to infested waters
24 containing a specific species will effectively reduce the
25 spread of that species.

26 The presence of common carp and curly-leaf pondweed is
27 not the basis for designating a water as infested.

28 (b) Except as otherwise provided in this Section, the
29 taking of wild animals from infested waters for bait or
30 aquatic farm purposes is prohibited.

31 In waters that are designated as infested waters, except
32 those designated because they contain prohibited exotic
33 species of fish, the taking of wild animals may be permitted

1 for:

2 (1) commercial taking of wild animals for bait and
3 aquatic farm purposes according to a permit issued under
4 Section 60; and

5 (2) bait purposes for noncommercial personal use in
6 waters that contain Eurasian water milfoil.

7 Section 20. Classification of exotic species.

8 (a) The Director shall classify exotic species according
9 to the following categories:

10 (1) prohibited exotic species that may not be
11 possessed, imported, purchased, sold, propagated,
12 transported, or introduced except as provided in Section
13 25;

14 (2) regulated exotic species that may not be
15 introduced except as provided in Section 35;

16 (3) unlisted exotic species that are subject to the
17 classification procedure in Section 30; and

18 (4) unregulated exotic species that are not subject
19 to regulation under this Act.

20 (b) The Director must consider the following criteria in
21 classifying an exotic species under this Act:

22 (1) the likelihood of introduction of the species if
23 it is allowed to enter or exist in the State;

24 (2) the likelihood that the species would naturalize
25 in the State if it was introduced;

26 (3) the magnitude of potential adverse impacts of
27 the species on native species and on outdoor recreation,
28 commercial fishing, and other uses of natural resources
29 in the State;

30 (4) the ability to eradicate or control the spread
31 of the species once it is introduced in the State; and

32 (5) other criteria the Director deems appropriate.

1 Section 25. Prohibited exotic species.

2 (a) A person may not possess, import, purchase, sell,
3 propagate, transport, or introduce a prohibited exotic
4 species, except:

5 (1) under a permit issued by the Director under
6 Section 60;

7 (2) when being transported to the Department, or
8 another destination that the Director directs, in a
9 sealed container for purposes of identifying the species
10 or reporting the presence of the species;

11 (3) when being transported for disposal as part of a
12 harvest or control activity under a permit issued by the
13 Director or as specified by the Director;

14 (4) when the specimen has been lawfully acquired
15 dead and, in the case of plant species, all seeds are
16 removed or are otherwise secured in a sealed container;

17 (5) in the form of herbaria or other preserved
18 specimens;

19 (6) when being removed from watercraft and
20 equipment, or caught while fishing, and immediately
21 returned to the water from which they came; or

22 (7) as the Director may otherwise prescribe by rule.

23 (b) The Director may seize or dispose of all specimens of
24 prohibited exotic species unlawfully possessed, imported,
25 purchased, sold, propagated, transported, or introduced in
26 the State.

27 Section 30. Unlisted exotic species.

28 (a) After the effective date of this Act, a person may
29 not introduce an unlisted exotic species unless:

30 (1) the person has notified the Director in a manner
31 and form prescribed by the Director;

32 (2) the Director has made the classification
33 determination required in subsection (b) and designated

1 the species as appropriate; and

2 (3) the introduction is allowed under the applicable
3 provisions of this Act.

4 (b) If the Director determines that a species for which a
5 notification is received under subsection (a) should be
6 classified as a prohibited exotic species, the Director
7 shall:

8 (1) adopt a rule designating the species as a
9 prohibited exotic species; and

10 (2) notify the person from whom the notification was
11 received that the species is subject to Section 25.

12 If the Director determines that a species for which a
13 notification is received under subsection (a) should be
14 classified as an unregulated exotic species, the Director
15 shall:

16 (1) adopt a rule designating the species as an
17 unregulated species; and

18 (2) notify the person from whom the notification was
19 received that the species is not subject to regulation
20 under this Act.

21 If the Director determines that a species for which a
22 notification is received under subsection (a) should be
23 classified as a regulated exotic species, the Director shall
24 notify the applicant that the species is subject to the
25 requirements of Section 35.

26 Section 35. Regulated exotic species. Except as provided
27 in rules adopted under this Act, a person may not introduce a
28 regulated exotic species without a permit issued by the
29 Director.

30 Section 40. Escape of exotic species.

31 (a) A person who allows or causes the introduction of a
32 wild animal that is a prohibited, regulated, or unlisted

1 exotic species shall, within 48 hours after learning of the
2 introduction, notify the Director, a Conservation Police
3 Officer, or another person designated by the Director. The
4 person must make every reasonable attempt to recapture or
5 destroy the introduced animal. If the animal is a prohibited
6 exotic species, the person is liable for the actual costs
7 incurred by the Department in capturing or controlling, or
8 attempting to capture or control, the animal and its progeny.
9 If the animal is a regulated exotic species, the person is
10 liable for these costs if the introduction was in violation
11 of a permit issued under Section 60.

12 (b) A person who complies with this Section is not
13 subject to criminal penalties under Section 70 for the
14 introduction.

15 Section 50. Aquatic macrophytes.

16 (a) Except as otherwise provided in this Section, a
17 person may not transport aquatic macrophytes on any public
18 road or highway.

19 (b) Unless otherwise prohibited by law, a person may
20 transport aquatic macrophytes:

21 (1) that are duckweeds in the family Lemnaceae;

22 (2) for disposal as part of a harvest or control
23 activity conducted under permit issued under Section 60
24 or as specified by the Director;

25 (3) for purposes of constructing shooting or
26 observation blinds in amounts sufficient for that
27 purpose, provided that the aquatic macrophytes are
28 emergent and cut above the waterline;

29 (4) when legally purchased or traded by or from
30 commercial or hobbyist sources for aquarium, wetland or
31 lakeshore restoration, or ornamental purposes;

32 (5) when harvested for personal or commercial use if
33 in a motor vehicle;

1 (6) to the Department, or another destination that
2 the Director determines, in a sealed container for
3 purposes of identifying a species or reporting the
4 presence of a species;

5 (7) when transporting a commercial aquatic plant
6 harvester to a suitable location for purposes of
7 cleaning any remaining aquatic macrophytes;

8 (8) that are wild rice; or

9 (9) that are in the form of fragments of emergent
10 aquatic macrophytes incidentally transported in or on
11 watercraft or decoys used for migratory waterfowl hunting
12 during the season in which it is lawful to take migratory
13 waterfowl under the Wildlife Code.

14 Section 55. Watercraft; prohibited acts.

15 (a) Except otherwise as provided in this Section, a
16 person may not place or attempt to place into waters of the
17 State a watercraft, trailer, or plant harvesting equipment
18 that has aquatic macrophytes, zebra mussels, or prohibited
19 exotic species attached.

20 (b) Unless otherwise prohibited by law, a person may
21 place into the waters of the State a watercraft or trailer
22 with aquatic macrophytes:

23 (1) that are duckweeds in the family Lemnaceae;

24 (2) for purposes of shooting or observation blinds
25 in amounts sufficient for that purpose if the aquatic
26 macrophytes are emergent and cut above the waterline;

27 (3) that are wild rice; or

28 (4) that are in the form of fragments of emergent
29 aquatic macrophytes incidentally transported in or on
30 watercraft or decoys used for migratory waterfowl hunting
31 during the season in which it is lawful to take migratory
32 waterfowl under the Wildlife Code.

33 (c) A Conservation Police Officer or other licensed peace

1 officer may order:

2 (1) the removal of aquatic macrophytes or prohibited
3 exotic species from a trailer or watercraft before it is
4 placed into waters of the State;

5 (2) the confinement of the watercraft at a mooring,
6 dock, or other location until the watercraft is removed
7 from the water; or

8 (3) the removal of a watercraft from waters of the
9 State to remove prohibited exotic species if the water
10 has not been designated by the Director as being infested
11 with that species.

12 Section 60. Permits.

13 (a) The Director may issue a permit for the propagation,
14 possession, importation, purchase, or transport of a
15 prohibited exotic species for the purposes of disposal,
16 control, research, or education.

17 (b) The Director may issue a permit for the introduction
18 of a regulated exotic species.

19 (c) The Director may issue a permit to allow the harvest
20 of bait from waters that are designated as infested waters,
21 except those waters designated as infested because they
22 contain prohibited exotic species of fish. The permit must
23 include conditions necessary to avoid spreading harmful
24 exotic species. Before receiving a permit, a person must
25 satisfactorily complete annual harmful exotic species-related
26 training provided by the Department.

27 (d) The Director may issue a permit under this Section
28 only if the he or she determines that the permitted activity
29 would not pose an unreasonable risk of harm to natural
30 resources or their use in the State. The Director may deny,
31 issue with conditions, modify, or revoke a permit under this
32 Section as necessary to ensure that the proposed activity
33 will not pose an unreasonable risk of harm to natural

1 resources or their use in the State.

2 (e) All final administrative decisions under this Section
3 are subject to review under the Administrative Review Law.

4 Section 65. Rules.

5 (a) The Director must adopt rules:

6 (1) designating infested waters and prohibited,
7 regulated, and unregulated exotic species;

8 (2) governing the application for and issuance of
9 permits under this Act, which may include a fee schedule;
10 and

11 (3) governing notification of escapes of exotic
12 species under Section 40.

13 (b) The Director may adopt rules:

14 (1) regulating the possession, importation,
15 purchase, sale, propagation, transport, and introduction
16 of harmful exotic species; and

17 (2) regulating the appropriation, use, and
18 transportation of water from infested waters.

19 (c) The Director may adopt emergency rules that
20 designate:

21 (1) prohibited exotic species;

22 (2) regulated exotic species;

23 (3) unregulated exotic species; and

24 (4) infested waters.

25 Section 70. Enforcement; penalties.

26 (a) Unless otherwise provided by law, this Act and rules
27 adopted under this Act may be enforced by Conservation Police
28 Officers and by other peace officers.

29 The authority of Conservation Police Officers to issue
30 citations under subsection (c) is in addition to other
31 remedies available under law, except that the State may not
32 seek penalties under any other provision of law for the

1 incident that is the subject of a citation.

2 (b) Any person who violates Section 25, 30, 35, 40, or 50
3 of this Act is guilty of a Class B misdemeanor.

4 Any person who refuses to obey an order of a peace
5 officer or a Conservation Police Officer to remove prohibited
6 exotic species or aquatic macrophytes from any watercraft,
7 trailer, or plant harvesting equipment is guilty of a Class C
8 misdemeanor.

9 (c) After appropriate training, Conservation Police
10 Officers, other peace officers, and other Department
11 personnel designated by the Director may issue warnings or
12 citations to a person who:

13 (1) unlawfully transports prohibited exotic species
14 or aquatic macrophytes;

15 (2) unlawfully places or attempts to place into
16 waters of the State a trailer, watercraft, or plant
17 harvesting equipment that has prohibited exotic species
18 attached;

19 (3) unlawfully fishes, anchors, or operates a
20 watercraft in a marked area of an Eurasian water milfoil
21 limited infestation; or

22 (4) intentionally damages, moves, removes, or sinks
23 a buoy marking, as prescribed by rule, Eurasian water
24 milfoil.

25 (d) A citation issued under this Section may impose civil
26 penalties up to the following penalty amounts:

27 (1) for transporting aquatic macrophytes on any
28 public road or highway, \$50;

29 (2) for placing or attempting to place into waters
30 of the State a watercraft, a trailer, or plant harvesting
31 equipment that has aquatic macrophytes attached, \$100;

32 (3) for transporting a prohibited exotic species
33 other than an aquatic macrophyte, \$100;

34 (4) for placing or attempting to place into waters

1 of the State a watercraft, trailer, or plant harvesting
2 equipment that has prohibited exotic species attached
3 when the waters are not designated by the Director as
4 being infested with that species, \$500 for the first
5 offense and \$1,000 for each subsequent offense;

6 (5) for fishing, anchoring, or operating a
7 watercraft in a marked area of a Eurasian water milfoil
8 limited infestation, other than as provided by law, \$100;
9 and

10 (6) for intentionally damaging, moving, removing, or
11 sinking a buoy marking, as prescribed by rule, Eurasian
12 water milfoil, \$100.

13 (e) A citation may be issued to suspend, for up to a
14 year, the watercraft license or the watercraft operating
15 privileges of an owner or person in control of a watercraft
16 or trailer who refuses to submit to an inspection under
17 Section 10 or who refuses to comply with a removal order
18 given under this Section.

19 (f) A civil penalty is due and a watercraft license
20 suspension is effective 30 days after issuance of the civil
21 citation. A civil penalty collected under this Section shall
22 be deposited into the Wildlife and Fish Fund.

23 (g) A citation and penalty may be appealed to the
24 Director if the person to whom the citation was issued
25 requests a hearing by notifying the Director within 15 days
26 after receipt of the citation. If a hearing is not requested
27 within the 15-day period, the citation becomes a final order
28 not subject to further review.

29 Section 75. Application. This Act does not apply to (i)
30 species regulated under the Exotic Weed Act or the Pest
31 Control Compact Act or (ii) mammals and birds defined by law
32 as livestock.

1 Section 900. The Boat Registration and Safety Act is
2 amended by changing Section 2-2 and by adding Section 11A-7
3 as follows:

4 (625 ILCS 45/2-2) (from Ch. 95 1/2, par. 312-2)
5 Sec. 2-2. Inspection.

6 (a) Agents of the Department or other duly authorized
7 police officers may board and inspect any boat at any time
8 for the purpose of determining if this Act is being complied
9 with. If the boarding officer or agent discovers any
10 violation of this Act, he may issue a summons to the operator
11 of the boat requiring that the operator appear before the
12 circuit court for the county within which the offense was
13 committed.

14 (b) Every vessel subject to this Act, if under way and
15 upon being hailed by a designated law enforcement officer,
16 must stop immediately and lay to.

17 (c) Agents of the Department and other duly authorized
18 police officers may enforce all federal laws and regulations
19 which have been mutually agreed upon by the federal and state
20 governments and are applicable to the operation of watercraft
21 on navigable waters and federal impoundments where concurrent
22 jurisdiction exists between the federal and state
23 governments.

24 (d) Agents of the Department and other duly authorized
25 police officers may seize and impound, at the owner's or
26 operator's expense, any watercraft involved in a boating
27 accident or a violation of Section 3A-21, 5-1, 5-2, or 5-16
28 of this Act.

29 (e) Agents of the Department and other duly authorized
30 police officers may board and inspect any watercraft at any
31 time for the purpose of determining if the Harmful Aquatic
32 Organisms Act is being complied with.

33 (Source: P.A. 87-798; 88-670, eff. 12-2-94.)

1 (625 ILCS 45/11A-7 new)

2 Sec. 11A-7. Violations of the Harmful Aquatic Organisms
3 Act. The Department may suspend, for the period of one year,
4 the watercraft license or the watercraft operating privileges
5 of any person who refuses to submit to an inspection under
6 the Harmful Aquatic Organisms Act or who refuses to comply
7 with a removal order issued under that Act.