



## 2020 South Dakota Legislature

# House Bill 1033

*Introduced by: The Committee on Agriculture and Natural Resources at the request of the Office of the Governor*

1 **An Act to provide for the prevention of aquatic invasive species contamination in**  
 2 **public waters and to declare an emergency.**

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 **Section 1.** That a NEW SECTION be added:

5 **41-13A-1. Definitions.**

6 Terms used in this chapter mean:

- 7 (1) "Aquatic invasive species," an aquatic species that is not native to the state,  
 8 including the seeds, eggs, spores, or larvae of the species, or other biological  
 9 material capable of propagation, and whose presence within the state may cause  
 10 economic or environmental harm;
- 11 (2) "Conveyance," a motorized or nonmotorized boat and associated equipment that  
 12 may come in contact with water or that is able to transport water. A conveyance  
 13 includes any trailer, engine, motor, live well, ballast tank, bilge area, anchor, and  
 14 any other item that may come in contact with water or is able to transport water  
 15 that could harbor an aquatic invasive species;
- 16 (3) "Decontamination," a process used to kill, destroy, or remove aquatic invasive  
 17 species and other organic material that may be present in or on a conveyance;
- 18 (4) "Inspection," a visual and tactile examination of a conveyance to determine  
 19 whether it may harbor any organisms or other organic material that could present  
 20 a risk of spreading an aquatic invasive species;
- 21 (5) "Waters," all waters within the jurisdiction of the state used for recreational  
 22 boating, including rivers, streams, and natural or manmade lakes, ponds, and  
 23 reservoirs.

24 **Section 2.** That a NEW SECTION be added:

1           **41-13A-2. Aquatic invasive species--Prohibitions--Violation as**  
2           **misdemeanor.**

3           No person may possess, import, ship, or transport within this state any aquatic  
4           invasive species unless authorized by the commission in rules promulgated under § 41-  
5           13A-8.

6           A violation of this section is a Class 2 misdemeanor. A second or subsequent  
7           violation of this section within one year is a Class 1 misdemeanor.

8           **Section 3.** That a NEW SECTION be added:

9           **41-13A-3. Conveyance placement--Requirements--Violation as**  
10           **misdemeanor.**

11           No person may place a conveyance, or cause a conveyance to be placed, into  
12           waters within this state without first meeting the requirements in § 41-13A-4 unless  
13           authorized by the commission in rules promulgated under § 41-13A-8.

14           A violation of this section is a Class 2 misdemeanor. A second or subsequent  
15           violation of this section within one year is a Class 1 misdemeanor.

16           **Section 4.** That a NEW SECTION be added:

17           **41-13A-4. Conveyance removal--Requirements--Violation as misdemeanor.**

18           Any person removing a conveyance from waters shall, to the extent possible, do  
19           the following:

20           (1) Clean the conveyance by removing all visible organic material, including plants,  
21           animals, and mud;

22           (2) Drain the conveyance by removing any plug or other barrier that prevents water  
23           drainage and running any pumps on board to expunge water; and

24           (3) Comply with any other requirements and protocols for the cleaning, draining, and  
25           drying of a conveyance established by the commission in rules promulgated under  
26           § 41-13A-8.

27           Failure to comply with the provisions of this section is a Class 2 misdemeanor. A  
28           second or subsequent violation of this section within one year is a Class 1 misdemeanor.

29           **Section 5.** That a NEW SECTION be added:

1           **41-13A-5. Inspection stations--Required inspections--Violation as**  
2           **misdemeanor.**

3           To prevent the introduction, importation, infestation, and spread of aquatic  
4           invasive species, the department may establish aquatic invasive species inspection  
5           stations at any location within the state including interstate borders, highways or other  
6           roads, locations adjacent to or near public waters, and at department offices. Any person  
7           with a conveyance is required to stop at an inspection station. The department shall  
8           receive approval from the Department of Transportation before establishing an inspection  
9           station along any road that is part of the state trunk system.

10           Failure to comply with the provisions of this section is a Class 2 misdemeanor. A  
11           second or subsequent violation of this section within one year is a Class 1 misdemeanor.

12           **Section 6.** That a NEW SECTION be added:

13           **41-13A-6. Inspection stations--Inspections--Decontamination.**

14           At inspection stations established under § 41-13A-5, authorized department  
15           personnel may inspect the exterior of any conveyance for the presence of organisms or  
16           organic material that may harbor aquatic invasive species. Authorized personnel may  
17           examine any interior portion of a conveyance that may carry or transport water or organic  
18           material, including an engine, motor, live well, ballast tank, or bilge area. A law  
19           enforcement officer may stop a person with a conveyance at a location other than an  
20           inspection station if the person fails to stop at an inspection station or fails to comply with  
21           required inspection and decontamination procedures. During the inspection, personnel  
22           may also check for compliance with the requirements established in §§ 41-13A-2 to 41-  
23           13A-4, inclusive.

24           If any organisms or organic material that may harbor aquatic invasive species are  
25           found or suspected to be present as a result of the inspection, the department may  
26           decontaminate the conveyance or order the decontamination of the conveyance.

27           **Section 7.** That a NEW SECTION be added:

28           **41-13A-7. Law enforcement authority--Inspections--Decontamination.**

29           A law enforcement officer, upon evidence that a conveyance is in violation of any  
30           of the provisions of §§ 41-13A-2 to 41-13A-4, inclusive, may require a person to stop and  
31           submit the conveyance to an inspection and decontamination of the conveyance. If a law  
32           enforcement officer conducts an inspection of a conveyance and finds or suspects, based

1 on articulable facts, the presence of organisms or organic material that may harbor aquatic  
2 invasive species, a law enforcement officer may do the following:

3 (1) Escort the conveyance to the nearest inspection station for immediate  
4 decontamination;

5 (2) Issue an order requiring the decontamination of the conveyance; or

6 (3) Detain the conveyance until the decontamination is complete.

7 **Section 8.** That a NEW SECTION be added:

8 **41-13A-8. Promulgation of rules.**

9 The commission shall promulgate rules, pursuant to chapter 1-26, establishing the  
10 following:

11 (1) The conditions under which the commission may authorize the possession,  
12 importation, shipment, or transport of an aquatic invasive species within the state;

13 (2) The conditions under which the commission may authorize the placement of a  
14 conveyance into waters within the state without first meeting the requirements of  
15 § 41-13A-4;

16 (3) The requirements and protocols for the cleaning, draining, and drying of a  
17 conveyance; and

18 (4) The standards and procedures for decontaminating a conveyance and for disposing  
19 of any organisms and organic material as provided in §§ 41-13A-6 and 41-13A-7.

20 **Section 9.** Whereas, this Act is necessary for the immediate preservation of the public peace,  
21 health, or safety, an emergency is hereby declared to exist, and this Act shall be in full force  
22 and effect from and after its passage and approval.