

2020 South Dakota Legislature
House Bill 1033

AMENDMENT 1033C FOR THE INTRODUCED BILL

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 ~~Promulgation of rules.~~

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

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

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

14 ~~(3) The requirements and protocols for the cleaning, draining, and drying of a conveyance;~~
15 ~~and~~

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

18 **Section 8.** That § 41-2-18 be AMENDED:

19 **41-2-18. Game, fish, and conservation laws--Promulgation of rules.**

20 The Game, Fish and Parks Commission may adopt such rules as may be necessary
21 to implement the provisions of chapters 41-1 to 41-15, inclusive. The rules may be
22 adopted to regulate:

23 (1) The conservation, protection, importation, and propagation of wild animals and fish
24 except for any nondomestic animal which is regulated pursuant to § 40-3-26;

25 (2) The hunting, taking, killing, possession, sale, and transportation of all wild birds,
26 wild animals, and wild fish except for any nondomestic animal which is regulated
27 pursuant to § 40-3-26;

28 (3) The management of nongame, endangered, or threatened wildlife to ensure their
29 perpetuation as viable components of the ecosystem;

- 1 (4) The management, control of traffic, improvement and public use of all lands and
2 water owned, leased, or controlled by the state and Department of Game, Fish and
3 Parks designated as public shooting areas, game production areas, wildlife refuges,
4 lake and fishing access use areas and controlled hunting areas;
- 5 (5) The management, use, and improvement of all meandered and nonmeandered
6 lakes, sloughs, marshes, and streams extending to and over dry or partially dry
7 meandered lakes, sloughs, marshes, and streams, including all lands to which the
8 state has acquired any right, title or interest for the purpose of water conservation
9 or recreation;
- 10 (6) The creation, modification, or vacation of state game refuges, state waterfowl
11 refuges, and state game bird refuges on all public land and on private land with the
12 written consent of the landowner;
- 13 (7) The management and improvement of all islands or accumulations of land formed
14 in the bed of a navigable stream or meandered lake on the Missouri River below the
15 Fort Randall Power Plant and Lake Francis Case;
- 16 (8) The appointment, management, bonding, and cancellation of licensing agents;
- 17 (9) The gathering, purchasing, distributing, and transferring of all wild animals and fish
18 for population management, stocking purposes, scientific study, and
19 intergovernmental trades;
- 20 (10) The form of and the manner and placement of any tags, coupons, or permits
21 necessary for the transportation of any wild animal or fish;
- 22 (11) The sale, breeding, raising, and transportation of any nondomestic animal which is
23 not regulated pursuant to § 40-3-26;
- 24 (12) The form, procedures for, and content of all license applications authorized under
25 this title;
- 26 (13) The form, procedures for, fee, and manner of validation, replacement, or
27 cancellation of all licenses authorized under this title that are not already
28 established by statute;
- 29 (14) The devices, weapons, ammunition, traps, tackle, bait, lures, and equipment which
30 may be used to hunt, kill, capture, or locate any wild animal or fish if use of the
31 above items would adversely affect the health, safety, or welfare of people or
32 wildlife resources;
- 33 (15) The hunting, fishing, and trapping in the boundary waters of this state;
- 34 (16) The release, hunting, and taking of animals and birds on private shooting preserves;

- 1 (17) The establishment of, and the opening, closing, modifying, or curtailing of hunting,
2 fishing, and trapping seasons, if the seasons are not established by statute;
- 3 (18) The setting of fees for special licenses not covered by statute to manage specific
4 and limited wildlife populations;
- 5 (19) The number of persons who may cooperate as a group in the pursuit, hunting,
6 taking, or killing of game birds or game animals;
- 7 (20) The acquisition, possession, use, and disposition of raptors;
- 8 (21) The acquisition, possession, transportation, sale, and release of bait fish and frogs;
- 9 (22) The regulation of, and the acquisition, possession, transportation, sale, and release
10 of fish, from private fish hatcheries;
- 11 (23) The regulation of fish houses or other sheltering structures maintained upon the ice
12 of any public waters;
- 13 (24) The issuance and cancellation of taxidermist licenses and the acquisition,
14 possession, and disposition of specimens for taxidermy purposes;
- 15 (25) The operation of controlled hunting areas;
- 16 (26) The conditions under which the commission may authorize the possession,
17 importation, shipment, or transport of an aquatic invasive species within the state;
- 18 (27) The conditions under which the commission may authorize the placement of a
19 conveyance into waters within the state without first meeting the requirements of
20 § 41-13A-4;
- 21 (28) The requirements and protocols for the cleaning, draining, and drying of a
22 conveyance; and
- 23 (29) The standards and procedures for decontaminating a conveyance and for disposing
24 of any organisms and organic material as provided in §§ 41-13A-6 and 41-13A-7.

25 The rules shall be adopted pursuant to chapter 1-26 and shall be in accordance with
26 the provisions of this chapter.

27 A violation of the substantive provision of any rule authorized by this section is a Class
28 2 misdemeanor. If the same incident is a violation of statute and of the rules authorized
29 by this section only the penalty authorized for the violation of the statute may be imposed.

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