



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB3954

Introduced 2/26/2009, by Rep. Harry Osterman

#### SYNOPSIS AS INTRODUCED:

New Act  
30 ILCS 105/5.719 new

Creates the Aquatic Invasive Species Prevention Act. Requires the Director of the Environmental Protection Agency, with the consultation of the Director of Natural Resources, to establish a permit program for oceangoing vessels to prevent the discharge of aquatic invasive species into State waters of the Great Lakes. Sets standards for issuance of permits. Requires cooperation with other states, Canada, and others. Contains provisions concerning fees and fines, reporting, monitoring, and review and enforcement. Amends the State Finance Act to create the Aquatic Invasive Species Prevention Fund. Provides for federal preemption. Contains other provisions. Effective immediately.

LRB096 09969 JDS 20133 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning invasive species prevention.

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 Aquatic Invasive Species Prevention Act.

6 Section 5. Intent. It is the intent of this Act to prevent  
7 the introduction and to minimize the spread of aquatic invasive  
8 species within the State waters of the Great Lakes.

9 Section 10. Definitions. For the purposes of this Act:

10 "Agency" means the Illinois Environmental Protection  
11 Agency.

12 "Aquatic invasive species" means a non-indigenous species  
13 that threatens the diversity or abundance of native species or  
14 the ecological stability of infested waters or threatens  
15 commercial, agricultural, aquacultural, or recreational  
16 activities dependent upon those waters.

17 "Department" means the Illinois Department of Natural  
18 Resources.

19 "Fund" means the Aquatic Invasive Species Prevention Fund.

20 "Oceangoing vessels" means cargo ships operating outside  
21 of Lake Michigan, Lake Superior, Lake Huron, Lake Erie, and  
22 their tributaries.

1 "State waters of the Great Lakes" means the surface water  
2 under the jurisdiction of the State of Illinois in the Great  
3 Lakes and waters that discharge, flow, or otherwise are  
4 transferred into the Great Lakes.

5 Section 15. Standards.

6 (a) On or before January 1, 2011 the Director of the Agency  
7 shall, with the consultation of the Director of the Department,  
8 establish a permit program for oceangoing vessels.

9 (b) On and after the effective date of the permit program,  
10 no one shall operate an oceangoing vessel on the State waters  
11 of the Great Lakes without possession of a permit from the  
12 Agency. The permit shall require at least one of the following  
13 conditions:

14 (1) Certification by the vessel operator that the  
15 vessel will not discharge aquatic invasive species into the  
16 State waters of the Great Lakes.

17 (2) Demonstration by the vessel operator that the  
18 vessel cannot discharge ballast water.

19 (3) Demonstration that (i) the vessel is equipped with  
20 environmentally sound treatment technology that can be  
21 used to prevent the introduction of aquatic invasive  
22 species into the State waters of the Great Lakes and (ii)  
23 the treatment technology is applied to all ballast water on  
24 board the vessel prior to discharge into the State waters  
25 of the Great Lakes.

1           Section 20. Cooperation. The Agency shall cooperate to the  
2 fullest extent practical with other Great Lakes basin states,  
3 the Canadian Great Lakes provinces, the Great Lakes Panel on  
4 Aquatic Nuisance Species, the Great Lakes Fishery Commission,  
5 the International Joint Commission, and the Great Lakes  
6 commission to ensure development of standards for the control  
7 of aquatic nuisance species that are broadly protective of the  
8 waters of the State and other natural resources.

9           Section 25. Great Lakes aquatic invasive species  
10 coalition. In order to address discharges of aquatic invasive  
11 species from oceangoing vessels that damage water quality,  
12 aquatic habitat, fish, or wildlife, the Agency shall facilitate  
13 the formation of a Great Lakes aquatic invasive species  
14 coalition. The Great Lakes aquatic invasive species coalition  
15 shall be formed through an agreement entered into with other  
16 states in the Great Lakes basin to implement on a basin-wide  
17 basis water pollution laws that prohibit the discharge of  
18 aquatic invasive species into the Great Lakes from oceangoing  
19 vessels. The Agency shall seek to enter into an agreement that  
20 will become effective not later than January 1, 2011. The  
21 Agency shall consult with the Department prior to entering into  
22 this agreement. Upon entering into the agreement, the Agency  
23 shall notify the Canadian Great Lakes provinces of the terms of  
24 the agreement.

1 Section 30. Fees and fines.

2 (a) The application fee for a permit under this Act shall  
3 be determined by the Agency, by rule, but shall not be less  
4 than \$100.

5 (b) A person determined to be in violation of the standards  
6 promulgated by the Agency under Section 15 of this Act is  
7 subject to a fine to be determined by the Agency, but not less  
8 than \$25,000 per violation.

9 Section 35. Reporting. Any oceangoing vessel operator  
10 intending to enter the State waters of the Great Lakes must  
11 issue a report via fax or e-mail to the Agency at least 24  
12 hours prior to any port operation in the State. The report  
13 format shall be determined by the Agency and shall describe how  
14 the vessel operator is complying with the permit.

15 Section 40. Aquatic Invasive Species Prevention Fund. The  
16 Aquatic Invasive Species Prevention Fund is created as a  
17 special fund in the State treasury. The Agency shall use this  
18 Fund, subject to appropriation, for the following purposes, not  
19 in order of priority: (i) further prevention of the  
20 introduction of aquatic invasive species; (ii) further control  
21 of the spread of existing aquatic invasive species; and (iii)  
22 reclamation of aquatic resources injured as a result of aquatic  
23 invasive species. The Agency shall deposit all moneys collected

1 under this Act into the Fund. Interest generated by the Fund  
2 shall be reinvested in the Fund.

3 Section 45. Monitoring. The Agency shall, in cooperation  
4 with the Department, establish a regular inspection system to  
5 ensure that the standards under this Act are being achieved.

6 Section 50. Review and enforcement.

7 (a) At least every 3 years beginning on December 1, 2011,  
8 the Agency shall evaluate the effectiveness of the technology  
9 standards promulgated under this Act in preventing the  
10 introduction and minimizing the spread of aquatic invasive  
11 species within the State waters of the Great Lakes. If the  
12 Agency determines that the technology standards have not been  
13 effective in achieving a complete prohibition on the  
14 introduction of new aquatic invasive species from oceangoing  
15 vessels into State waters of the Great Lakes, the Agency, by  
16 rule, shall adopt revised technology standards and may adopt  
17 additional or alternative performance standards to accomplish  
18 the goals of this Act.

19 (b) If federal regulations are promulgated that are at  
20 least as restrictive as those described in regulations under  
21 this Act, the Agency shall cease enforcement of this Act on the  
22 effective date of the federal regulations.

23 (c) No later than 12 months after the effective date of  
24 federal regulations that are at least as restrictive as those

1 described in regulations under this Act, and every 3 years  
2 thereafter, the Agency shall complete a review of the  
3 effectiveness of federal regulations in preventing the  
4 introduction of new aquatic invasive species to the Great  
5 Lakes. If, as a result of this review, the Agency determines  
6 that reinstating the enforcement of this Act would be more  
7 effective than the federal regulations in preventing the  
8 introduction and minimizing the spread of aquatic invasive  
9 species in the State waters of the Great Lakes, the Agency  
10 shall reinstate enforcement of this Act.

11 (c) The Attorney General may recover damages as a result of  
12 enforcement actions taken under this Act, which shall be  
13 deposited into the Fund and shall be adequate for, at a  
14 minimum, the reclamation of aquatic resources damaged by  
15 unauthorized releases of aquatic invasive species.

16 Section 90. The State Finance Act is amended by adding  
17 Section 5.719 as follows:

18 (30 ILCS 105/5.719 new)

19 Sec. 5.719. The Aquatic Invasive Species Prevention Fund.

20 Section 99. Effective date. This Act takes effect upon  
21 becoming law.