

Act No. 21
Public Acts of 1989
Approved by the Governor
May 17, 1989
Filed with the Secretary of State
May 18, 1989

**STATE OF MICHIGAN
85TH LEGISLATURE
REGULAR SESSION OF 1989**

Introduced by Reps. Bartnik, Miller, Hoffman, Middaugh, Pridnia, Stacey, Sofio, DeMars, Profit, Griffin, Niederstadt, Hart, Weeks, Hertel, Kosteva, Gire, Barns, Berman, Porreca, Stopczynski, Spaniola, Jonker, Owen, Brown and Palamara

ENROLLED HOUSE BILL No. 4245

AN ACT to amend the title and sections 1, 2, 4, 5, 7, 10, and 11 of Act No. 167 of the Public Acts of 1970, entitled "An act to regulate the disposal of oil and sewage from watercraft; and to prohibit littering of waterways," being sections 323.331, 323.332, 323.334, 323.335, 323.337, 323.340, and 323.341 of the Michigan Compiled Laws; and to repeal certain parts of the act.

The People of the State of Michigan enact:

Section 1. The title and sections 1, 2, 4, 5, 7, 10, and 11 of Act No. 167 of the Public Acts of 1970, being sections 323.331, 323.332, 323.334, 323.335, 323.337, 323.340, and 323.341 of the Michigan Compiled Laws, are amended to read as follows:

TITLE

An act to regulate the discharge of oil, litter, and sewage from watercraft and docking facilities; to prescribe the powers and duties of certain state agencies; and to prescribe penalties and remedies.

Sec. 1. This act shall be known and may be cited as the "watercraft pollution control act".

Sec. 2. As used in this act:

(a) "Approved holding tank" means a holding tank certified by the United States coast guard under part 159 of subchapter O of chapter I of title 33 of the code of federal regulations, 33 C.F.R. part 159.

(b) "Department" means the department of natural resources.

(c) "Discharge" means spilling, leaking, pumping, pouring, emitting, emptying, or dumping.

(d) "Docking facility" means a public, private, or commercial marina, yacht club, dock, or wharf used for mooring, serving, or otherwise handling watercraft.

(e) "Litter" means rubbish, refuse, waste material, garbage, offal, paper, glass, cans, bottles, trash, debris, oil, or other foreign substances of every kind and description.

(f) "Marine sanitation device" means equipment designed for installation on board a watercraft or installed on board a watercraft to receive, retain, treat, or discharge sewage.

(g) "Oil" means oil of any kind or in any form, including petroleum, fuel oil, sludge, and oil refuse.

(h) "Person" means an individual, partnership, corporation, association, or other legal entity.

(i) "Police officer" means a police officer as defined in section 42 of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being section 257.42 of the Michigan Compiled Laws, and a conservation officer.

(j) "Portable" means not permanently affixed to a watercraft and capable of being immediately removed from a watercraft.

(k) "Rule" means a rule promulgated pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

(l) "Sewage" means human body wastes, treated or untreated.

(m) "Watercraft" means a contrivance used or capable of being used for navigation upon water, whether or not capable of self-propulsion, including foreign and domestic vessels engaged in commerce upon the waters of this state, passenger or other cargo-carrying vessels and privately owned recreational watercraft.

(n) "Waters of this state" means waters within the territorial limits of this state including the waters of the Great Lakes that are under the jurisdiction of this state.

Sec. 4. (1) Except as otherwise provided in this section, a person shall not moor or operate a watercraft, or permit the mooring or operation of his or her watercraft, on the waters of this state that has a marine sanitation device unless the marine sanitation device is equipped with 1 or more of the following pollution control devices:

(a) An approved holding tank which will retain all sewage produced on the watercraft for subsequent disposal at approved dockside or onshore collection and treatment facilities.

(b) An incinerating device which will reduce to ash all sewage produced on the watercraft. The ash shall be disposed of onshore in a manner which will preclude pollution.

(2) Except as otherwise provided in this section, a person shall not moor or operate a watercraft on the waters of this state if the watercraft has a marine sanitation device that is equipped with any type of bypass connection, pump, or other means of directly or indirectly discharging sewage into the waters of this state, unless the bypass connection, pump, or other device has been rendered incapable of directly or indirectly discharging sewage into the waters of this state. This subsection shall not be construed to prohibit a properly installed discharge line used to empty a holding tank or retention device at an onshore sewage pump-out station, or to prohibit the use of a portable marine sanitation device. A bypass connection, pump, or other device shall be rendered incapable of directly or indirectly discharging sewage into the waters of this state by 1 of the following methods:

(a) Removing a section of the pipe or tubing that allows discharge of sewage into the waters of this state, placing a cap over the pipe or tubing that remains attached to the marine sanitation device, and placing a seal approved by the department over the cap in a manner that precludes reattaching the pipe or tubing without breaking the seal. To comply with the requirements of this subsection, the seal must be unbroken at the time an inspection occurs.

(b) Closing a valve that will prevent all discharge of sewage into the waters of the state, and placing a seal approved by the department over the valve handle in a manner that precludes reopening the valve without breaking the seal. To comply with the requirements of this subsection, the seal must be unbroken at the time an inspection occurs.

(3) The department, by rule, may exempt certain ocean going watercraft from the requirements of this section.

(4) If the department or its designee conducts an inspection to determine whether a watercraft is in compliance with this section and finds that the watercraft is in compliance, the department or its designee shall place a sticker on the watercraft that lists the date that the watercraft was inspected. The department or its designee shall not inspect a watercraft for compliance with this section more than once per year except upon probable cause.

Sec. 5. (1) Except as otherwise provided in this section, all docking facilities shall provide pump-out facilities approved by the department of public health for marine sanitation device holding tanks on the watercraft. All pump-out facility plans and installations shall be approved by the department of public health or its authorized representative.

(2) An existing docking facility that would otherwise be required by this section to have pump-out facilities, is not required to have those facilities if it has a contract to use, and does use, the pump-out facilities of a docking facility in the vicinity. A contract between docking facilities under this subsection shall be approved by the department. This subsection shall not apply to any docking facility that is constructed after the effective date of subsection (3), or whose capacity is expanded by a cumulative amount exceeding 25%, or more than 15 slips, whichever is less, of the capacity existing on the effective date of subsection (3).

(3) A docking facility that is constructed after the effective date of this subsection or whose capacity is expanded by a cumulative amount exceeding 25%, or more than 15 slips, whichever is less, of the capacity existing on the effective date of this subsection shall provide pump-out facilities as required by this act.

- (4) A docking facility that has a capacity of 15 watercraft or less is exempt from the requirement of subsection (1).
- (5) A docking facility holding only small watercraft of a type not equipped with a marine sanitation device is exempt from the requirements of subsection (1).

Sec. 7. (1) A person shall not discharge or permit the discharge of oil from a watercraft or a docking facility into or onto the waters of this state.

(2) The owner or operator of a watercraft who, whether directly or through any person concerned in the operation, navigation, or management of the watercraft, discharges, permits, or causes or contributes to the discharge of oil into or onto the waters of this state or adjoining shorelines or beaches shall immediately remove the oil from the waters, shorelines, or beaches. If the state removes the oil which was discharged from the watercraft, the owner or operator, or both, shall be liable to the state for the full amount of the costs reasonably incurred for its removal. The state may bring action against the owner or operator, or both, to recover such costs in any court of competent jurisdiction.

Sec. 10. (1) The department may promulgate rules that are necessary or convenient to carry out this act.

(2) The department of public health may promulgate rules necessary for the regulation of docking facility water supplies and sewage systems, pump-out facilities, and dockside sanitary facilities.

(3) Before promulgating a rule under this section, the department or the department of public health shall appoint and consult with an advisory committee that is representative of the major interests affected by the proposed rule.

Sec. 11. A person who violates this act or the rules promulgated under this act is guilty of a misdemeanor, punishable by imprisonment for not more than 92 days, or a fine of not more than \$500.00, or both.

Section 2. Sections 5a, 5b, 5c, and 6 of Act No. 167 of the Public Acts of 1970, being sections 323.335a, 323.335b, 323.335c, and 323.336 of the Michigan Compiled Laws, are repealed.

Section 3. This amendatory act shall take effect May 1, 1990.

.....
Clerk of the House of Representatives.

.....
Secretary of the Senate.

Approved

.....
Governor.