

HOUSE BILL No. 4245

February 21, 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 and referred to the Committee on Tourism, Fisheries and Wildlife.

A bill 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 "Watercraft pollution control act of 1970," 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:

1 Section 1. The title and sections 1, 2, 4, 5, 7, 10, and 11
2 of Act No. 167 of the Public Acts of 1970, being sections
3 323.331, 323.332, 323.334, 323.335, 323.337, 323.340, and 323.341
4 of the Michigan Compiled Laws, are amended to read as follows:

5 TITLE

6 An act to regulate the ~~disposal~~ DISCHARGE of oil, LITTER,
7 and sewage from watercraft AND DOCKING FACILITIES; ~~and to~~
8 ~~prohibit littering of waterways~~ TO PRESCRIBE THE POWERS AND

1 DUTIES OF CERTAIN STATE AGENCIES; AND TO PRESCRIBE PENALTIES AND
2 REMEDIES.

3 Sec. 1. This act shall be known and may be cited as the
4 "watercraft pollution control act". ~~of 1970~~.

5 Sec. 2. As used in this act:

6 (a) ~~"Act" means Act No. 245 of the Public Acts of 1929, as~~
7 ~~amended, being sections 323.1 to 323.12a of the Compiled Laws of~~
8 ~~1948.~~ "APPROVED HOLDING TANK" MEANS A HOLDING TANK CERTIFIED BY
9 THE UNITED STATES COAST GUARD UNDER PART 159 OF SUBCHAPTER O OF
10 CHAPTER I OF TITLE 33 OF THE CODE OF FEDERAL REGULATIONS, 33
11 C.F.R. PART 159.

12 (b) ~~"Commission"~~ "DEPARTMENT" means the ~~water resources~~
13 ~~commission of the~~ department of natural resources.

14 (c) "DISCHARGE" MEANS SPILLING, LEAKING, PUMPING, POURING,
15 EMITTING, EMPTYING, OR DUMPING.

16 (d) "DOCKING FACILITY" MEANS A PUBLIC, PRIVATE, OR COMMER-
17 CIAL MARINA, YACHT CLUB, DOCK, OR WHARF USED FOR MOORING, SERV-
18 ING, OR OTHERWISE HANDLING WATERCRAFT.

19 (e) ~~(c)~~ "Litter" means ~~all~~ rubbish, refuse, waste mate-
20 rial, garbage, offal, paper, glass, cans, bottles, trash, debris,
21 OIL, or other foreign substances of every kind and description.

22 ~~(d) "Sewage" means all human body wastes, treated or~~
23 ~~untreated.~~

24 (f) "MARINE SANITATION DEVICE" MEANS EQUIPMENT DESIGNED FOR
25 INSTALLATION ON BOARD A WATERCRAFT OR INSTALLED ON BOARD A WATER-
26 CRAFT TO RECEIVE, RETAIN, TREAT, OR DISCHARGE SEWAGE.

1 (G) ~~(e)~~ "Oil" means oil of any kind or in any form,
2 including ~~but not limited to~~ petroleum, fuel oil, sludge, and
3 oil refuse.

4 ~~(f) "Marine toilet" means any toilet on or within a water~~
5 ~~craft used to discharge sewage.~~

6 (H) "PERSON" MEANS AN INDIVIDUAL, PARTNERSHIP, CORPORATION,
7 ASSOCIATION, OR OTHER LEGAL ENTITY.

8 (I) "POLICE OFFICER" MEANS A POLICE OFFICER AS DEFINED IN
9 SECTION 42 OF THE MICHIGAN VEHICLE CODE, ACT NO. 300 OF THE
10 PUBLIC ACTS OF 1949, BEING SECTION 257.42 OF THE MICHIGAN
11 COMPILED LAWS, AND A CONSERVATION OFFICER.

12 (J) "PORTABLE" MEANS NOT PERMANENTLY AFFIXED TO A WATERCRAFT
13 AND CAPABLE OF BEING IMMEDIATELY REMOVED FROM A WATERCRAFT.

14 (K) "RULE" MEANS A RULE PROMULGATED PURSUANT TO THE ADMINIS-
15 TRATIVE PROCEDURES ACT OF 1969, ACT NO. 306 OF THE PUBLIC ACTS OF
16 1969, BEING SECTIONS 24.201 TO 24.328 OF THE MICHIGAN COMPILED
17 LAWS.

18 (L) "SEWAGE" MEANS HUMAN BODY WASTES, TREATED OR UNTREATED.

19 (M) ~~(g)~~ "Watercraft" means ~~any~~ A contrivance used or
20 capable of being used for navigation upon water, whether or not
21 capable of self-propulsion, including foreign and domestic ves-
22 sels engaged in commerce upon the waters of this state, passenger
23 or other cargo-carrying vessels and privately owned recreational
24 watercraft.

25 (N) ~~(h)~~ "Waters of this state" means ~~all of the waterways~~
26 ~~on which watercraft may be used or operated including, but not~~
27 ~~limited to,~~ WATERS WITHIN THE TERRITORIAL LIMITS OF THIS STATE

1 INCLUDING THE WATERS OF the Great Lakes ~~and connecting~~
2 ~~waterways~~ THAT ARE under the jurisdiction of this state.

3 ~~(i) "Person" means an individual, partnership, firm, corpo-~~
4 ~~ration, association or other entity.~~

5 ~~(j) "Discharge" means any spilling, leaking, pumping, pour-~~
6 ~~ing, emitting, emptying or dumping.~~

7 Sec. 4. (1) ~~Any pleasure or recreational watercraft oper-~~
8 ~~ated on the waters of this state which is moored or registered in~~
9 ~~another state or jurisdiction, if equipped with a pollution con-~~
10 ~~trol device approved by that jurisdiction, may be approved by the~~
11 ~~commission to operate on the waters of this state.~~

12 ~~(2) A person owning, operating or otherwise concerned in~~
13 ~~the operation, navigation or management of~~ SHALL NOT MOOR, OWN,
14 OR OPERATE a watercraft, REGISTERED IN THIS STATE AND LOCATED ON
15 THE WATERS OF THIS STATE having a marine ~~toilet shall not own,~~
16 ~~use or permit the use of such toilet on the waters of this state~~
17 SANITATION DEVICE, unless the ~~toilet~~ MARINE SANITATION DEVICE
18 is equipped with 1 OR MORE of the following pollution control
19 devices:

20 (a) ~~A~~ AN APPROVED holding tank ~~or self contained marine~~
21 ~~toilet~~ which will retain all sewage produced on the watercraft
22 for subsequent disposal at approved dockside or onshore collec-
23 tion and treatment facilities.

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

1 (2) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, A PERSON
2 SHALL NOT MOOR OR OPERATE A WATERCRAFT THAT IS REGISTERED IN THIS
3 STATE, ON THE WATERS OF THIS STATE, OR OWN A WATERCRAFT THAT IS
4 REGISTERED IN THIS STATE AND LOCATED ON THE WATERS OF THIS STATE,
5 IF THE WATERCRAFT HAS A MARINE SANITATION DEVICE THAT IS EQUIPPED
6 WITH ANY TYPE OF BYPASS CONNECTION, PUMP, OR OTHER MEANS OF
7 DIRECTLY OR INDIRECTLY DISCHARGING SEWAGE INTO THE WATERS OF THIS
8 STATE, UNLESS THE BYPASS CONNECTION, PUMP, OR OTHER DEVICE HAS
9 BEEN RENDERED PERMANENTLY INCAPABLE OF DIRECTLY OR INDIRECTLY
10 DISCHARGING SEWAGE INTO THE WATERS OF THIS STATE. THIS SUBSEC-
11 TION SHALL NOT BE CONSTRUED TO PROHIBIT A PROPERLY INSTALLED DIS-
12 CHARGE LINE USED TO EMPTY A HOLDING TANK OR RETENTION DEVICE AT
13 AN ONSHORE SEWAGE PUMP-OUT STATION, OR TO PROHIBIT THE USE OF A
14 PORTABLE MARINE SANITATION DEVICE.

15 (3) THE DEPARTMENT, BY RULE, MAY EXEMPT CERTAIN OCEAN GOING
16 WATERCRAFT FROM THE REQUIREMENTS OF THIS SECTION.

17 (4) IF THE DEPARTMENT OR ITS DESIGNEE CONDUCTS AN INSPECTION
18 TO DETERMINE WHETHER A WATERCRAFT IS IN COMPLIANCE WITH THIS SEC-
19 TION, THE DEPARTMENT OR ITS DESIGNEE SHALL PLACE A STICKER ON THE
20 WATERCRAFT THAT LISTS THE DATE THAT THE WATERCRAFT WAS
21 INSPECTED. THE DEPARTMENT OR ITS DESIGNEE SHALL NOT INSPECT A
22 WATERCRAFT FOR COMPLIANCE WITH THIS SECTION MORE THAN ONCE PER
23 YEAR EXCEPT UPON PROBABLE CAUSE.

24 Sec. 5. (1) ~~All public, private, and commercial marinas,~~
25 ~~yacht clubs, docks, and wharves used for mooring, serving, or~~
26 ~~otherwise handling watercraft of the size capable of being~~
27 ~~equipped with marine toilet facilities,~~ EXCEPT AS OTHERWISE

1 PROVIDED IN THIS SECTION, ALL DOCKING FACILITIES shall provide
2 pump-out facilities ~~approved by the department of public health~~
3 for marine ~~toilet~~ SANITATION DEVICE holding tanks on the
4 watercraft. ALL PUMP-OUT FACILITY PLANS AND INSTALLATIONS SHALL
5 BE APPROVED BY THE DEPARTMENT OR ITS AUTHORIZED REPRESENTATIVE.

6 (2) An ~~installation~~ EXISTING DOCKING FACILITY that would
7 otherwise be required by this section to have pump-out facili-
8 ties, is not required to have those facilities if it has a con-
9 tract to use, and does use, the pump-out facilities of ~~an adja-~~
10 ~~cent installation.~~ The A DOCKING FACILITY IN THE VICINITY. A
11 contract ~~must~~ BETWEEN DOCKING FACILITIES UNDER THIS SUBSECTION
12 SHALL be approved by the department. ~~of natural resources.~~
13 THIS SUBSECTION SHALL NOT APPLY TO ANY DOCKING FACILITY THAT IS
14 CONSTRUCTED AFTER THE EFFECTIVE DATE OF SUBSECTION (3), OR WHOSE
15 CAPACITY IS EXPANDED BY A CUMULATIVE AMOUNT EXCEEDING 25%, OR
16 MORE THAN 15 SLIPS, WHICHEVER IS LESS, OF THE CAPACITY EXISTING
17 ON THE EFFECTIVE DATE OF SUBSECTION (3).

18 (3) A DOCKING FACILITY THAT IS CONSTRUCTED AFTER THE EFFEC-
19 TIVE DATE OF THIS SUBSECTION OR WHOSE CAPACITY IS EXPANDED BY A
20 CUMULATIVE AMOUNT EXCEEDING 25%, OR MORE THAN 15 SLIPS, WHICHEVER
21 IS LESS, OF THE CAPACITY EXISTING ON THE EFFECTIVE DATE OF THIS
22 SUBSECTION SHALL PROVIDE PUMP-OUT FACILITIES AS REQUIRED BY THIS
23 ACT.

24 (4) A DOCKING FACILITY THAT HAS A CAPACITY OF 15 WATERCRAFT
25 OR LESS IS EXEMPT FROM THE REQUIREMENT OF SUBSECTION (1).

1 (5) A DOCKING FACILITY HOLDING ONLY SMALL WATERCRAFT OF A
2 TYPE NOT EQUIPPED WITH A MARINE SANITATION DEVICE IS EXEMPT FROM
3 THE REQUIREMENTS OF SUBSECTION (1).

4 Sec. 7. (1) A person ~~owning, operating or otherwise con-~~
5 ~~cerned in the operation, navigation or management of a watercraft~~
6 ~~operating on the waters of this state~~ shall not discharge or
7 permit the discharge of oil ~~or oily wastes~~ from ~~the~~ A water-
8 craft OR A DOCKING FACILITY into or onto the waters of this
9 state. ~~if the oil or oily wastes threaten to pollute or con-~~
10 ~~tribute to the pollution of the waters or adjoining shorelines or~~
11 ~~beaches.~~

12 (2) The owner or operator of ~~any~~ A watercraft who, whether
13 directly or through any person concerned in the operation, navi-
14 gation, or management of the watercraft, discharges, ~~or~~ per-
15 mits, or causes or contributes to the discharge of oil ~~or oily~~
16 ~~wastes~~ into or onto the waters of this state or adjoining shore-
17 lines or beaches shall immediately remove the oil ~~or oily~~
18 ~~wastes~~ from the waters, shorelines, or beaches. If the state
19 removes the oil ~~or oily wastes~~ which ~~were~~ WAS discharged ~~by~~
20 ~~an owner or operator, the watercraft and~~ FROM THE WATERCRAFT,
21 the owner or operator, ~~are~~ OR BOTH, SHALL BE liable to the
22 state for the full amount of the costs reasonably incurred for
23 its removal. The state may bring action against the owner or
24 operator, OR BOTH, to recover such costs in any court of compe-
25 tent jurisdiction.

1 Sec. 10. (1) The ~~commission~~ DEPARTMENT may promulgate
2 ~~all~~ rules THAT ARE necessary or convenient ~~for the carrying~~
3 ~~out of duties and powers conferred by~~ TO CARRY OUT this act.

4 (2) BEFORE PROMULGATING A RULE UNDER THIS SECTION, THE
5 DEPARTMENT SHALL APPOINT AND CONSULT WITH AN ADVISORY COMMITTEE
6 THAT IS REPRESENTATIVE OF THE MAJOR INTERESTS AFFECTED BY THE
7 PROPOSED RULE.

8 Sec. 11. ~~Any~~ A person who violates ~~any provision of~~
9 this act OR THE RULES PROMULGATED UNDER THIS ACT is guilty of a
10 misdemeanor, ~~and shall be fined not more than \$500.00. To be~~
11 ~~enforceable, the provision or the rule shall be of such flexibi-~~
12 ~~lity that a watercraft owner, in carrying out the provision or~~
13 ~~rule, is able to maintain maritime safety requirements and comply~~
14 ~~with the federal marine and navigation laws and regulations~~
15 PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 92 DAYS, OR A FINE
16 OF NOT MORE THAN \$500.00, OR BOTH.

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