

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas  
2 82nd General Assembly  
3 Regular Session, 1999  
4

# A Bill

Act 1101 of 1999  
HOUSE BILL 1995

5 By: Representative T. Smith  
6  
7

## For An Act To Be Entitled

9 "AN ACT TO AMEND ARKANSAS CODE 27-101-401 THROUGH 408  
10 PERTAINING TO A MARINE SANITATION PROGRAM IN THE  
11 DEPARTMENT OF HEALTH; AND FOR OTHER PURPOSES."  
12

## Subtitle

13 "AN ACT TO AMEND ARKANSAS CODE 27-101-401  
14 THROUGH 408 PERTAINING TO A MARINE  
15 SANITATION PROGRAM IN THE DEPARTMENT OF  
16 HEALTH."  
17  
18  
19

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
21

22 SECTION 1. Arkansas Code 27-101-401 is amended to read as follows:

23 "27-101-401. Definitions.

24 As used in this subchapter, unless the context otherwise requires:

25 (1) 'Boat' means any vessel or watercraft moved by oars, paddles,  
26 sails, or other power mechanism, inboard or outboard, or any other vessel or  
27 structure floating upon the water, whether or not capable of self-locomotion,  
28 including, but not limited to, house boats, barges, and similar floating  
29 objects;

30 (2) 'Impounded waters' means fresh water lakes used for recreation or  
31 public drinking water supply;

32 (3) 'Marina operators' means the owner, operator, lessor, or sublessor  
33 or a marina facility, an agent, or any other person authorized to manage the  
34 facility;

35 (4) 'Marine sanitation system' means any equipment on board a boat that  
36 is designed to receive, treat and retain marine sewage;

1           ~~(2)~~(5) 'Marine toilets' means any toilet on or within any boat;

2           ~~(3)~~ 'Waters of the state' means all streams, lakes, marshes, ponds,  
 3 watercourses, waterways, irrigation systems, drainage systems, and all other  
 4 bodies or accumulations of water, natural or artificial, public or private,  
 5 which are contained within or flow through the territorial jurisdiction of the  
 6 state;

7           ~~(4)~~(6) 'Sewage' 'Marine sewage' means all human body toilet waste;

8           (7) 'Seal' means Department of Health approved device to prevent the  
 9 activation of the marine sanitation locking device; and

10           (8) 'Marine sanitation locking device' means a Y-valve or gate valve or  
 11 other device that would allow discharge of toilet waste into waters of the  
 12 state."

13  
 14           SECTION 2. Arkansas Code 27-101-402 is amended to read as follows:

15           "27-101-402. ~~Penalty~~ Penalties.

16           ~~Any person guilty of violating any provision of this subchapter shall be~~  
 17 ~~guilty of a misdemeanor.~~

18           (a) Any person guilty of violating any provision of this subchapter or  
 19 any regulations promulgated under this subchapter shall be deemed guilty of a  
 20 misdemeanor and shall be punished by a fine of not less than one hundred  
 21 dollars (\$100) and not more than one thousand dollars (\$1,000).

22           (b) Any person who violates any provision of this subchapter and  
 23 regulation issued pursuant thereto may be assessed an administrative civil  
 24 penalty not to exceed one thousand dollars (\$1,000) per violation."

25  
 26           SECTION 3. Arkansas Code 27-101-403 is amended to read as follows:

27           "27-101-403. State Board of Health - Powers and duties.

28           The State Board of Health is given and charged with the following powers  
 29 and duties:

30           (1) To administer and enforce all laws and regulations relating to  
 31 marine toilets, marine sanitation systems, and unlawful disposal of marine  
 32 sewage from boats;

33           (2) To enter at all reasonable times in or upon any boat for the  
 34 purpose of inspecting and investigating conditions relating to marine toilets,  
 35 marine sanitation systems, and unlawful disposal of marine sewage from boats  
 36 into impounded waters ~~of the state;~~

1           (3) ~~To make and promulgate rules and regulations that it, from time to~~  
 2 ~~time, may deem~~ adopt regulations approved by the Marine Sanitation Advisory  
 3 committee as necessary to carry out the provisions of this subchapter;

4           (4) To bring any appropriate action in court in the name of the State  
 5 of Arkansas that may appear to it to be necessary to carry out the provisions  
 6 of this subchapter;

7           (5) To make, issue, modify, and revoke orders prohibiting or abating  
 8 the unlawful discharge of marine sewage into impounded waters ~~of the state~~  
 9 from boats."

10  
 11           SECTION 4. Arkansas Code 27-101-404 is amended to read as follows:

12           ~~"27-101-404. Inadequately treated~~ Discharge of marine sewage -  
 13 Prohibitions.

14           (a) No marine toilet or marine sanitation system on any boat operated  
 15 upon impounded waters ~~of the state shall be so constructed and operated as to~~  
 16 may discharge any ~~inadequately treated~~ marine sewage into impounded waters ~~of~~  
 17 ~~the state~~ directly or indirectly.

18           (b) ~~No boat shall be equipped to permit discharge from or through its~~  
 19 ~~marine toilet, or in any other manner, of any inadequately treated sewage at~~  
 20 ~~any time into waters of the state, nor shall any container of inadequately~~  
 21 ~~treated~~ marine sewage shall be removed from any boat and placed, left, or  
 22 discharged or caused to be placed, left, or discharged in or near any  
 23 impounded waters ~~of the state~~ at any time by any person, whether or not he is  
 24 the owner, operator, guest, or occupant of a boat-, except in an emergency as  
 25 defined by the Department of Health."

26  
 27           SECTION 5. Arkansas Code 27-101-405 is amended to read as follows:

28           ~~"27-101-405. Treatment devices on marine toilets.~~ Marine Sanitation  
 29 Advisory Committee.

30           ~~(a) Any marine toilet located on or within any boat operated on waters~~  
 31 ~~of the state shall have securely affixed to the interior discharge opening of~~  
 32 ~~the toilet a suitable treatment device in operating condition, constructed and~~  
 33 ~~fastened in accordance with regulations of the State Board of Health or some~~  
 34 ~~other treatment facility or method authorized by regulation of the State Board~~  
 35 ~~of Health.~~

36           (a) There is established a Marine Sanitation Advisory Committee to

1 consist of twelve (12) members appointed by the Governor as follows:

2 (1) Five (5) members shall be marina operators;

3 (2) One (1) member shall be an operator of a marine repair  
 4 facility;

5 (3) Two (2) members shall be employees of the Bureau of  
 6 Environmental Health Services of the Department of Health as nominated by the  
 7 Director of the Department of Health;

8 (4) Three (3) members shall be boat owners; and

9 (5) One (1) member shall be the captain of Division 15 of the  
 10 United States Coast Guard Auxiliary or his designee.

11 ~~(b) All sewage passing into the waters of the state from boats shall~~  
 12 ~~pass solely through the suitable treatment devices affixed to the interior~~  
 13 ~~discharge opening of the marine toilet.~~

14 (b) The two members appointed pursuant to subdivision (a)(3) shall  
 15 serve at the pleasure of the director of the Department of Health and the  
 16 member appointed pursuant to subdivision (a)(5) shall serve as long as the  
 17 person remains captain of Division 15 of the United States Coast Guard  
 18 Auxiliary or if the designee of the captain, the designee will serve as long  
 19 as the person designating him is captain of Division 15. Of the initial  
 20 members appointed under subdivisions (a)(1), (a)(2), and (a)(4), three (3)  
 21 shall be appointed for one (1) year terms, three (3) for two (2) year terms  
 22 and three (3) for three (3) year terms. Successor members shall serve three-  
 23 year terms except that persons appointed to fill vacancies resulting in an  
 24 unexpired term shall serve for the remainder of that unexpired term.

25 (c) Upon recommendation of the advisory committee, made after notice  
 26 and hearing, the Governor may remove any member of the advisory committee for  
 27 incompetence, neglect of duty or malfeasance in office.

28 (d) Any vacancy on the advisory committee shall be filled by the  
 29 Governor.

30 (e) The Governor shall call the first advisory committee meeting. The  
 31 advisory committee shall elect annually from its membership a chairperson,  
 32 vice-chairperson and a secretary. The chairperson shall not serve more than  
 33 two (2) consecutive terms as chairperson. The advisory committee shall meet as  
 34 frequently as it deems necessary, at such times and places as the advisory  
 35 committee designates. Additional meetings may be held upon call of the  
 36 chairperson or upon written request of five (5) members of the advisory

1 committee.

2 (f) Seven (7) members of the advisory committee shall constitute a  
 3 quorum.

4 (g) The members of the advisory committee shall not be entitled to  
 5 compensation for their services but may receive expense reimbursement in  
 6 accordance with § 25-16-902."

7  
 8 SECTION 6. Title 27, Chapter 101, Subchapter 4 of the Arkansas Code is  
 9 amended by adding the following section to be appropriately numbered by the  
 10 Arkansas Code Revision Commission:

11 "Powers and duties of the Marine Sanitation Advisory Committee.  
 12 The Marine Sanitation Advisory Committee shall:

13 (a) Review all regulations relating to marine toilets, marine  
 14 sanitation systems, and disposal of marine sewage from boats as necessary to  
 15 carry out the provisions of this subchapter and recommend their approval to  
 16 the State Board of Health;

17 (b) Recommend to the Department of Health a timetable for  
 18 implementation of regulations promulgated under this subchapter so that  
 19 persons required to comply with its provisions have a reasonable opportunity  
 20 to bring facilities into compliance;

21 (c) Establish a marine sanitation mini-grant program for the purpose of  
 22 providing grants to marinas to purchase additional marine equipment to assist  
 23 with the compliance of this act if funds are available; and

24 (d) Conduct ongoing research to advise the Department of Health in  
 25 regard to technological developments in the discharge of marine sewage."

26  
 27 SECTION 7. Title 27, Chapter 101, Subchapter 4 of the Arkansas Code is  
 28 amended by adding the following section to be appropriately numbered by the  
 29 Arkansas Code Revision Commission:

30 "Permit - Fees.

31 (a) No person shall operate a marine toilet on a boat or a marine  
 32 sanitation system on a boat that is not validly permitted by the Department of  
 33 Health for the operation of that toilet or marine sanitation system.

34 (b) The annual permit fee to operate a marine toilet on a boat or a  
 35 marine sanitation system on a boat shall be forty-five dollars (\$45.00) for  
 36 the first marine toilet or marine sanitation system on a boat and fifteen

1 dollars (\$15.00) for each additional marine toilet or marine sanitation system  
 2 on the same boat. One-third (1/3) of the fees shall apply to the mini-grant  
 3 program to be administered by the Department of Health.

4 (c) A late penalty fee equal to one-half (1/2) of the annual permit fee  
 5 shall be charged to renew a permit sixty (60) days after the annual expiration  
 6 date."

7  
 8 SECTION 8. Title 27, Chapter 101, Subchapter 4 of the Arkansas Code is  
 9 amended by adding the following section to be appropriately numbered by the  
 10 Arkansas Code Revision Commission:

11 "Marina operators.

12 (a) Marina operators shall work with the Department of Health and  
 13 Marine Sanitation Advisory Committee to ensure that all boats, marine toilets,  
 14 marine sanitation systems, and disposal of marine sewage from boats into  
 15 impounded waters are in compliance with this subchapter.

16 (b) Marina operators shall, in accordance with regulations promulgated  
 17 by the State Board of Health, encourage prompt compliance with this  
 18 subchapter.

19 (c) When accepting new boat arrivals, marina operators shall inform  
 20 boat owners and operators of the requirements of this subchapter in accordance  
 21 with regulations promulgated by the State Board of Health."

22  
 23 SECTION 9. Title 27, Chapter 101, Subchapter 4 of the Arkansas Code is  
 24 amended by adding the following section to be appropriately numbered by the  
 25 Arkansas Code Revision Commission:

26 "Funds.

27 (a) All fees and fines levied and collected under the provisions of  
 28 this subchapter are declared to be special revenues and shall be deposited in  
 29 the State Treasury to be credited to the Public Health Fund to be used only  
 30 for the administration of this subchapter.

31 (b) Subject to such rules and regulations as may be implemented by the  
 32 Chief Fiscal Officer of the State, the disbursing officer for the Department  
 33 of Health is authorized to transfer all unexpended funds relative to marine  
 34 toilets and marine sanitation systems that pertain to fees or fines collected,  
 35 as certified by the Chief Fiscal Officer of the State, to be carried forward  
 36 and made available for expenditures for the same purpose for any following

1 fi scal year."

2  
3 SECTION 10. All provisions of this act of a general and permanent  
4 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas  
5 Code Revision Commission shall incorporate the same in the Code.

6  
7 SECTION 11. If any provision of this act or the application thereof to  
8 any person or circumstance is held invalid, such invalidity shall not affect  
9 other provisions or applications of the act which can be given effect without  
10 the invalid provision or application, and to this end the provisions of this  
11 act are declared to be severable.

12  
13 SECTION 12. All laws and parts of laws in conflict with this act are  
14 hereby repealed.

15  
16 SECTION 13. EMERGENCY CLAUSE. It is hereby found and determined by the  
17 Eighty-second General Assembly that the discharge of untreated sewage from  
18 boats into impounded waters of the State of Arkansas poses a serious threat to  
19 the public health and the environment; that such a serious threat needs to be  
20 rectified immediately; that this act improves the state's ability to enforce  
21 laws relative to marine sanitation. Therefore, an emergency is declared to  
22 exist and this act being immediately necessary for the preservation of the  
23 public peace, health and safety shall become effective on the date of its  
24 approval by the Governor. If the bill is neither approved nor vetoed by the  
25 Governor, it shall become effective on the expiration of the period of time  
26 during which the Governor may veto the bill. If the bill is vetoed by the  
27 Governor and the veto is overridden, it shall become effective on the date the  
28 last house overrides the veto.

29  
30  
31 APPROVED: 4/5/1999