

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 83rd General Assembly  
3 Regular Session, 2001  
4

As Engrossed: H3/28/01

# A Bill

Act 1608 of 2001  
HOUSE BILL 2630

5 By: Representative Haak  
6  
7

## For An Act To Be Entitled

9 AN ACT TO REPEAL ARKANSAS CODE 27-101-401 THROUGH  
10 27-101-404; TO MODIFY THE MARINE SANITATION LAWS  
11 TO CONFORM WITH FEDERAL LAW; AND FOR OTHER  
12 PURPOSES.  
13

## Subtitle

14 AN ACT TO MODIFY THE MARINE SANITATION  
15 LAWS TO CONFORM WITH FEDERAL LAW.  
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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21 SECTION 1. Arkansas Code 27-101-401 - 404 is repealed:

22 ~~27-101-401. Definitions.~~

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

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

29 ~~(2) "Impounded waters" means freshwater lakes used for recreation or~~  
30 ~~public drinking water supply;~~

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

34 ~~(4) "Marine sanitation locking device" means a Y valve or gate valve~~  
35 ~~or other device that would allow discharge of toilet waste into waters of the~~  
36 ~~state;~~

1           ~~(5) "Marine sanitation system" means any equipment on board a boat~~  
2 ~~that is designed to receive, treat and retain marine sewage;~~

3           ~~(6) "Marine sewage" means all human body toilet waste;~~

4           ~~(7) "Marine toilets" means any toilet on or within any boat; and~~

5           ~~(8) "Seal" means a Department of Health approved device to prevent the~~  
6 ~~activation of the marine sanitation locking device.~~

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8           ~~27-101-402. Penalties.~~

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

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

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17           ~~27-101-403. State Board of Health—Powers and duties.~~

18 ~~The State Board of Health is given and charged with the following powers and~~  
19 ~~duties:~~

20           ~~(1) To administer and enforce all laws and regulations relating to~~  
21 ~~marine toilets, marine sanitation systems, and unlawful disposal of marine~~  
22 ~~sewage from boats;~~

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

27           ~~(3) To adopt regulations approved by the Marine Sanitation Advisory~~  
28 ~~Committee as necessary to carry out the provisions of this subchapter;~~

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

32           ~~(5) To make, issue, modify, and revoke orders prohibiting or abating~~  
33 ~~the unlawful discharge of marine sewage into impounded waters from boats.~~

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35           ~~27-101-404. Discharge of marine sewage—Prohibitions.~~

36           ~~(a) No marine toilet or marine sanitation system on any boat operated~~

1 upon impounded waters may discharge marine sewage into impounded waters  
2 directly or indirectly.

3 ~~(b) No container of marine sewage shall be removed from any boat and~~  
4 ~~placed, left, or discharged or caused to be placed, left, or discharged in or~~  
5 ~~near any impounded waters at any time by any person, whether or not he is the~~  
6 ~~owner, operator, guest, or occupant of a boat except in an emergency as~~  
7 ~~defined by the Department of Health.~~

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9 SECTION 2. Arkansas Code 27-101-405 is amended to read as follows:  
10 27-101-405. Marine Sanitation Advisory Committee.

11 (a) There is established a Marine Sanitation Advisory Committee, to  
12 consist of ~~twelve (12)~~ thirteen (13) members appointed by the Governor as  
13 follows:

14 (1) ~~Five (5)~~ Five (5) members shall be marina operators;

15 (2) ~~One (1)~~ One (1) member shall be an operator of a marine repair  
16 facility;

17 (3) ~~Two (2) members shall be employees of the Bureau of~~  
18 ~~Environmental Health Services of the Department of Health as~~ One (1) member  
19 shall be nominated by the Director of the Department of Health;

20 (4) One (1) member shall be nominated by the Director of the  
21 Department of Environmental Quality;

22 (5) One (1) member shall be nominated by the Director of the  
23 Game and Fish Commission;

24 ~~(4) (6)~~ Three (3) members shall be boat owners; and

25 ~~(5) (7)~~ One (1) member shall be the Captain of Division 15 of  
26 the United States Coast Guard Auxiliary or his or her designee.

27 (b) The ~~two (2)~~ three (3) members appointed pursuant to ~~subdivision~~  
28 subdivisions (a)(3) through (a)(5) of this section shall serve at the  
29 pleasure of the director of each respective agency, and the member appointed  
30 pursuant to subdivision ~~(a)(5)~~ (a)(7) of this section shall serve as long as  
31 the person remains Captain of Division 15 of the United States Coast Guard  
32 Auxiliary or, if the designee of the captain, the designee will serve as long  
33 as the person designating him is Captain of Division 15. Of the initial  
34 members appointed under subdivisions (a)(1), (a)(2), and ~~(a)(4)~~ (a)(6) of  
35 this section, three (3) shall be appointed for one-year terms, three (3) for  
36 two-year terms and three (3) for three-year terms. Members shall serve three-

1 year terms except that persons appointed to fill vacancies resulting in an  
2 unexpired term shall serve for the remainder of that unexpired term.

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

6 (d) Any vacancy on the advisory committee shall be filled by the  
7 Governor.

8 (e) The Governor shall call the first advisory committee meeting. The  
9 advisory committee shall elect annually from its membership a chairperson, a  
10 vice chairperson, and a secretary. The chairperson shall not serve more than  
11 two (2) consecutive terms as chairperson. The advisory committee shall meet  
12 as frequently as it deems necessary at such times and places as the advisory  
13 committee designates. Additional meetings may be held upon the call of the  
14 chairperson or upon written request of five (5) members of the advisory  
15 committee.

16 (f) Seven (7) members of the advisory committee shall constitute a  
17 quorum.

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

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22 SECTION 3. Arkansas Code 27-101-407 is amended to read as follows:

23 27-101-407. Marina operators.

24 (a) Marina operators shall ~~work~~ cooperate with ~~the Department of~~  
25 ~~Health~~ all applicable state and federal agencies and the Marine Sanitation  
26 Advisory Committee to ensure that ~~all boats, marine toilets, marine~~  
27 ~~sanitation systems, and the~~ disposal of marine sewage ~~from boats into~~  
28 ~~impounded waters are in compliance with this subchapter~~ is consistent with  
29 state and federal law.

30 ~~(b) Marina operators shall, in accordance with regulations promulgated~~  
31 ~~by the State Board of Health, encourage prompt compliance with this~~  
32 ~~subchapter.~~

33 (b) When accepting new boat arrivals, marina operators shall inform  
34 boat owners and operators of the requirements of ~~this subchapter in~~  
35 ~~accordance with regulations promulgated by the board~~ state and federal law  
36 regarding the proper disposal of marine sewage.

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SECTION 4. Arkansas Code 27-101-409 is amended to read as follows:

27-101-409. Powers and duties of the Marine Sanitation Advisory Committee.

The Marine Sanitation Advisory Committee ~~shall~~ may, subject to the availability of funding:

(a) Review all regulations relating to marine toilets, marine sanitation systems, and disposal of marine sewage from boats as necessary to ~~carry out the provisions of this subchapter and recommend their approval to the State Board of Health~~ inform marina operators and boat owners of all requirements of state and federal law;

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

~~(c)~~ (b) Establish a marine sanitation migrant program for the purpose of providing grants to marinas to purchase additional marine equipment to assist with the ~~compliance of this subchapter if funds are available~~ proper disposal of marine sewage; and

~~(d)~~ (c) ~~Conduct ongoing~~ Encourage research ~~to advise the department in regard to technological developments in the discharge of marine sewage.~~

SECTION 5. Arkansas Code Title 27, Chapter 101, Subchapter 4 is amended by adding an additional section to read as follows:

27-101-410. Cooperation with federal agencies.

The Department of Health, the Arkansas Department of Environmental Quality, and the Arkansas State Game and Fish Commission shall pursue cooperative agreements with all appropriate federal agencies to ensure the proper disposal of marine sewage in Arkansas.

/s/ Haak

APPROVED: 4/13/2001