

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas
2 81st General Assembly
3 Regular Session, 1997

As Engrossed: H2/19/97

A Bill

HOUSE BILL 1638

4
5 By: Representative Maddox
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7

For An Act To Be Entitled

8
9 "AN ACT TO AMEND ARKANSAS CODE ANNOTATED §§ 27-101-401, ET
10 SEQ., PERTAINING TO A MARINE SANITATION PROGRAM IN THE
11 DEPARTMENT OF HEALTH; AND FOR OTHER PURPOSES."
12

Subtitle

13
14 "TO AMEND ARKANSAS CODE ANNOTATED
15 §§ 27-101-401, ET SEQ., PERTAINING TO A
16 MARINE SANITATION PROGRAM IN THE
17 DEPARTMENT OF HEALTH."
18

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 is amended to read as follows:
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, sails,
25 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, house boats, barges, and similar floating
28 objects;

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

31 (3) Marine operator means the owner, operator, lessor, or sublessor of
32 a marina facility, and agent, or any other person authorized to manage the
33 facility;

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

36 ~~————(2)~~(5) Marine toilets means any toilet on or within any boat;

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

6 ~~_____ (4)(6) Sewage~~ Marine sewage means all human body toilet waste."
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8 SECTION 2. Arkansas Code Annotated § 27-101-402 is amended to read as
9 follows:

10 "27-101-402. ~~Penalty~~ Penalties.

11 ~~_____ Any person guilty of violating any provision of this subchapter shall be~~
12 ~~guilty of a misdemeanor.~~

13 (a) Any person violating any provision of this subchapter or any
14 regulations promulgated under this subchapter shall be deemed guilty of a
15 misdemeanor and shall be punished by a fine of not less than one hundred
16 dollars (\$100.00) and not more than one thousand dollars (\$1,000.00) for each
17 day of each offense.

18 (b) Any person who violates any provision of this subchapter and
19 regulations issued pursuant thereto may be assessed an administrative civil
20 penalty not to exceed one thousand dollars (\$1,000) per violation. Each day
21 of a continuing violation may be deemed a separate violation for purposes of
22 penalty assessment. No civil penalty may be assessed until the person charged
23 with the violation has been given the opportunity for a hearing in accordance
24 with regulations adopted by the State Board of Health."

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

28 "27-101-403. State Board of Health - Powers and duties.

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

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

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

1 into impounded waters ~~of the state~~;

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

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

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

11

12 SECTION 4. Arkansas Code Annotated § 27-101-404 is amended to read as
13 follows:

14 "27-101-404. ~~Inadequately treated~~ Discharge of marine sewage -
15 Prohibitions.

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

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

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29 SECTION 5. Arkansas Code Annotated § 27-101-405 is amended to read as
30 follows:

31 "~~27-101-405. Treatment devices on marine toilets.~~

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

1 of Health.

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

5 "27-101-405. Marina Sanitation Advisory Committee.

6 (a) There is established a Marina Sanitation Advisory Committee to
7 consist of twelve (12) members appointed by the Governor as follows:

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

9 (2) Two (2) members shall be operators of marine repair
10 facilities;

11 (3) Two (2) members shall be employees of the Bureau of
12 Environmental Health Services of the Department of Health as appointed by the
13 Director of the Department of Health; and

14 (4) Three (3) members shall be boat owners.

15 (b) The initial members of the committee shall be appointed so that
16 three (3) serve a one-year term; three (3) serve a two-year term; and three
17 (3) serve a three-year term. Successor members shall serve three-year terms
18 except that persons appointed to fill vacancies resulting in an unexpired term
19 shall serve for the remainder of that unexpired term.

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

23 (d) Any vacancy on the advisory committee shall be filled by the
24 Governor.

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

33 (f) Five (5) members of the advisory committee shall constitute a
34 quorum.

35 (g) The members of the advisory committee shall not be entitled to
36 compensation for their services but may receive expense reimbursement in

1 accordance with Arkansas Code Annotated § 25-16-902."

2

3 SECTION 6. Subchapter 4 of Chapter 101 of Title 27 of the Arkansas Code
4 Annotated is amended by adding the following new sections:

5 "27-101-406. Powers and duties of the Marina Sanitation Advisory
6 Committee.

7 The Marina Sanitation Advisory Committee shall:

8 (1) Review all regulations relating to marine toilets, marine
9 sanitation systems, and disposal of marine sewage from boats as necessary to
10 carry out the provisions of this subchapter and recommend their approval to
11 the State Board of Health;

12 (2) Recommend to the Bureau of Environmental Health Services a
13 timetable for implementation of regulations promulgated under this subchapter
14 so that persons required to comply with its provisions have a reasonable
15 opportunity to bring facilities and boats into compliance;

16 (3) Establish and administer a Marine Sanitation Mini-Grant Program for
17 the purpose of providing grants to marinas to purchase additional marine
18 equipment to assist with the compliance of this act if funds are available;
19 and

20 (4) Conduct ongoing research to advise the Bureau of Environmental
21 Health Services in regard to technological developments in the discharge of
22 marine sewage.

23 27-101-407. Permit - Fees.

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

27 (b) The annual permit fee to operate a marine toilet on a boat or a
28 marine sanitation system on a boat shall be forty-five dollars (\$45.00) for
29 the first marine toilet or marine sanitation system on a boat and fifteen
30 dollars (\$15.00) for each additional marine toilet or marine sanitation system
31 on the same boat.

32 (c) A late penalty fee equal to one-half of the annual permit fee shall
33 be charged to renew a permit sixty (60) days after the annual expiration date.

34 27-101-408. Marina Operators.

35 (a) Marina operators shall work with the Department of Health and
36 Marine Sanitation Advisory Committee to ensure that all boats, marine toilets,

1 marine sanitation systems, and disposal of marine sewage from boats into
2 impounded waters are in compliance with this subchapter.

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

6 (c) When accepting new boat arrivals, marina operators shall inform
7 boat owners and operators of the requirements of this subchapter in accordance
8 with regulations promulgated by the Board of Health.

9 27-101-409. Funds.

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

14 (b) Subject to such rules and regulations as may be implemented by the
15 Chief Fiscal Officer of the State, the disbursing officer for the Department
16 of Health is authorized to transfer all unexpended funds relative to marine
17 toilets and marine sanitation systems that pertain to fees or fines collected,
18 as certified by the Chief Fiscal Officer of the State, to be carried forward
19 and made available for expenditures for the same purpose for any following
20 fiscal year."

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22 SECTION 7. All provisions of this act of a general and permanent nature
23 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
24 Revision Commission shall incorporate the same in the Code.

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26 SECTION 8. If any provision of this act or the application thereof to
27 any person or circumstance is held invalid, such invalidity shall not affect
28 other provisions or applications of the act which can be given effect without
29 the invalid provision or application, and to this end the provisions of this
30 act are declared to be severable.

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32 SECTION 9. All laws and parts of laws in conflict with this act are
33 hereby repealed.

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35 SECTION 10. EMERGENCY. It is found and determined by the General
36 Assembly of the State of Arkansas that the discharge of untreated sewage from

1 boats into impounded waters of the State of Arkansas poses a serious threat to
2 the public health and the environment; that such a serious threat needs to be
3 rectified immediately; that this act improves the States ability to enforce
4 laws relative to marine sanitation. Therefore an emergency is declared to
5 exist and this act being immediately necessary for the preservation of the
6 public peace, health and safety shall become effective on the date of its
7 approval by the Governor. If the bill is neither approved nor vetoed by the
8 Governor, it shall become effective on the expiration of the period of time
9 during which the Governor may veto the bill. If the bill is vetoed by the
10 Governor and the veto is overridden, it shall become effective on the date the
11 last house overrides the veto.

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/s/Rep. Maddox