

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

A Bill

HOUSE BILL 1995

4
5 By: Representative T. Smith
6
7

For An Act To Be Entitled

8
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."

Subtitle

12
13
14 "AN ACT TO AMEND ARKANSAS CODE 27-101-401
15 THROUGH 408 PERTAINING TO A MARINE
16 SANITATION PROGRAM IN THE DEPARTMENT OF
17 HEALTH."

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."
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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.
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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.
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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.
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