House Legislative Analysis Section

Washington Square Building, Suite 1025
Lansing, Michigan 48909
Phone: 517/373-6466

AMEND WATERCRAFT POLLUTION CONTROL ACT

House Bill 4245 as passed by the House
Second Analysis (4-12-89)

Sponsor: Rep. Jerry C. Bartnik
Committee: Tourism, Fisheries, and Wildlife

THE APPARENT PROBLEM:

The Watercraft Pollution Control Act prohibits dumping raw sewage, oil, and garbage from watercraft into Michigan waters and requires marine toilets either to be self-contained or connected to an incinerator. Despite these restrictions, however, it appears that sewage contamination of popular bays and harbors continues to be a problem. Tests conducted at several sites in Little Traverse Bay and Lake Charlevoix by the Tip of the Mitt Watershed Council and the Lake Charlevoix Association found levels of fecal coliform bacteria well in excess of those considered to be a public health risk. Its studies of the area led the Tip of the Mitt Watershed Council to conclude that boating, rather than land-based sites, was the source of the pollution. Enforcement of the act and its prohibition against sewage discharges, according to the Department of Natural Resources (DNR), has been hampered by a judicial interpretation that enforcement action can only be taken upon observing an illegal discharge. It has been suggested that the act be strengthened by prohibiting watercraft from having working bypass connections capable of discharging sewage directly into the water, and by enabling the state to inspect watercraft for compliance with that requirement.

THE CONTENT OF THE BILL:

The Watercraft Pollution Control Act requires watercraft operated in Michigan waters and having on-board toilets to be equipped with either holding tanks or incinerators capable of incinerating sewage. The bill would in addition prohibit watercraft from being equipped with any type of bypass connection, pump, or other means of directly or indirectly discharging sewage into state waters unless the device had been rendered incapable of directly or indirectly discharging sewage into state waters. (The department could by rule exempt certain ocean-going watercraft from this provision.) If, following inspection, the department or its designee found a watercraft to be in compliance with the bypass prohibition, it would place a sticker on the watercraft which bore the date of inspection. Neither the department nor its designee could inspect a watercraft for compliance with the bypass prohibition more than once a year, except upon probable cause.

The bill would continue to exempt docking facilities with a 15 or fewer slips from a requirement that marinas provide pump-out facilities for marine sanitation device holding tanks. As at present, an existing marina would not have to have its own pump-out facility if it had a department-approved contract to use the pump-out facility of a nearby marina. However, after the bill took effect, newly-constructed docking facilities with more than 15 slips, or existing facilities that were expanded by more than 25 percent or fifteen slips (whichever was less), could not avail themselves of nearby pump-out facilities, but would have to have their own. Also, all pump-out facility plans and installations would have to be approved by the Department of Natural Resources. Docking facilities holding only small watercraft not equipped with marine toilets would be exempt from pump-out facility requirements.

Currently, the act prohibits the discharge of oil or oily wastes from a watercraft into state waters if the oil or the oily wastes threaten to pollute or contribute to the pollution of the waters, adjoining shorelines or beaches. The bill would prohibit any discharge of oil from watercraft or docking facilities. Under the act, if oil is discharged from watercraft the owner or operator is liable to the state for the full amount of costs reasonably incurred for the removal of the oil. The bill would in addition allow both owner and operator to be held liable.

With regard to the development of rules under the act, the bill would require the department to appoint and consult an advisory committee that was representative of the major interests affected by the proposed rule.

The bill would repeal a provision requiring applicants for boat plate registration to disclose to the commission whether the watercraft had in or on it a marine toilet, and whether the toilet was equipped with a pollution control device.

The bill would take effect May 1, 1990.

MCL 323.331 et al.

FISCAL IMPLICATIONS:

According to the Department of Natural Resources, the bill would have no fiscal implications. (3-17-89)

ARGUMENTS:

For:

Although the law prohibits discharging sewage from boats, violations occur with enough frequency to cause unacceptably high coliform bacteria levels in many popular recreational waters. The bill, with its prohibition against toilet bypass plumbing, would give the sewage discharge prohibition more force by enabling the department to enforce the bypass prohibition. Anti-pollution efforts would be further aided by strengthening the requirement for larger marinas to have sewage pump-out facilities: marinas newly built or expanded to a certain size would have to have their own facilities, and would not be allowed to contract for the use of another's. However, the bill would maintain a reasonable flexibility with, for example, provisions exempting small-boat facilities from the pump-out requirement and allowing the DNR to exempt certain ocean-going vessels from the restrictions on marine toilets. The bill thus would improve environmental protections while minimizing interference with commerce and tourism.

OVER

POSITIONS:

The Department of Natural Resources supports the bill. (3-17-89)

The Michigan Boating Industries Association supports the bill. (4-11-89)

The Michigan Environmental Council supports the bill. (3-28-89)

The Michigan Sheriffs Association supports the bill. (3-17-89)

The Tip of the Mitt Watershed Council supports the bill. (3-17-89)

The Michigan United Conservation Clubs supports the bill. (3-22-89)