

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 313

Regulation of Releases from Gambling Vessels

**SPONSOR(S):** Allen

**TIED BILLS:**

**IDEN./SIM. BILLS:** SB 732

---

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Environmental Regulation Committee		Perkins	Kliner
2) Business Regulation Committee			
3) Governmental Operations Committee			
4) Agriculture & Environment Appropriations Committee			
5) State Resources Council			

---

### SUMMARY ANALYSIS

The bill requires the Department of Environmental Protection (DEP) to register gambling vessels and to regulate certain waste disposal releases from gambling vessels.

Specifically, the bill requires:

- Gambling vessels to hold specified waste while in coastal waters and then release the wastes upon returning to a port facility in accordance with the procedures of the port facility.
- Port authorities to establish procedures and a process for verification of contents and for the release of specified waste streams.
- Port authorities to establish and collect a fee not to exceed the costs associated with disposal of the required releases from gambling vessels.
- Owners or operators of gambling vessels to report releases into coastal waters within 24 hours to DEP, and provides for civil penalties for violations.

The bill authorizes DEP to adopt rules to implement and administer the provisions provided for in the bill.

The overall fiscal impact of the bill is indeterminate.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. HOUSE PRINCIPLES ANALYSIS:

**Provide limited Government:** The bill requires DEP to register gambling vessels and to regulate certain waste disposal releases from gambling vessels.

**Ensure Lower Taxes:** The bill requires port authorities to establish and collect a fee not to exceed the actual costs associated with collection and disposal of the releases from gambling vessels.

**Safeguard Individual Liberty:** The bill requires DEP to register gambling vessels and to regulate certain waste disposal releases from gambling vessels. The bill prohibits gambling vessels from releasing certain waste disposals within areas otherwise permissible under federal regulations.

**Promote Personal Responsibility:** The bill requires DEP to register gambling vessels and to regulate certain waste disposal releases from gambling vessels. The bill requires port authorities to establish and collect a fee not to exceed the costs associated with disposal of the releases from gambling vessels. The bill requires owners or operators of gambling vessels to report releases into coastal waters within 24 hours to DEP, and provides for civil penalties for violations.

### B. EFFECT OF PROPOSED CHANGES:

#### Background

Each day thousands of vessels use our waterways for transportation, commercial and recreational activities. Protecting our environment includes the proper handling of waste and wastewater management practices onboard these vessels.

Discharge of oil and other pollutants is prohibited under current state law.<sup>1</sup> For this purpose, the term "discharge" includes, but is not limited to, "any spilling, leaking, seeping, pouring, emitting, emptying, or dumping."<sup>2</sup> Not only does the provision cover discharges which occur within Florida's territorial limits, the statute has explicit extraterritorial effect if the discharge "affects lands and waters within the territorial limits of the state."<sup>3</sup> Penalties for discharging oil or other pollutants range up to \$50,000 per day.<sup>4</sup> Violators are liable for cleanup costs, and can be required to compensate the state for any damage done to the state's natural resources.<sup>5</sup>

Similarly, it is a violation of state law to discharge untreated sewage.<sup>6</sup> Discharge of untreated sewage from a commercial vessel is presumptively done for a commercial purpose, and is a felony of the third degree.<sup>7</sup> Violations of the federal regulations pertaining to marine sanitation devices are also sanctionable under color of state law.<sup>8</sup> Although in theory these provisions apply beyond the territorial limits of the state (the waters of this state include "the high seas when navigated as a part of a journey or ride to or from the shore of this state")<sup>9</sup>, the extraterritorial effect is not significant because the federal regulations enforceable under the state statute do not apply beyond three nautical miles from shore.

---

<sup>1</sup> s. 376.041, F.S.

<sup>2</sup> s. 376.031(7), F.S.

<sup>3</sup> Id.

<sup>4</sup> s. 376.16, F.S.

<sup>5</sup> s. 376.12, F.S. and s. 376.121, F.S.

<sup>6</sup> s. 327.53(4), F.S. and s. 403.413(5), F.S.

<sup>7</sup> s. 403.413(6), F.S.

<sup>8</sup> s. 327.53(5), F.S.

<sup>9</sup> s. 327.02(38), F.S.

The penalties for discharging solid waste from a vessel into state waters include civil penalties of up to \$10,000 per day.<sup>10</sup> The DEP may also assess administrative penalties of \$2,000 per day, plus another \$1,000 because the waste is placed in a water body, plus another \$1,000 if the waste is untreated biomedical waste.<sup>11</sup> The disposal of hazardous wastes is tightly regulated under part IV of chapter 403, F.S., and disposal violations are similarly severely sanctioned.<sup>12</sup>

### Florida Gambling Vessel Industry

Florida has a thriving day-cruise industry which offers gamblers the opportunity to board casino vessels that cruise offshore where casino gambling is legal. From the east coast of Florida, gambling vessels travel beyond the jurisdictional limits of the state (three miles out into the Atlantic Ocean and nine miles out into the Gulf of Mexico) to gamble. There appear to be 10 gambling vessels operating from Florida. The 10 gambling vessels identified operate from the following locations:

- Cape Canaveral (Sterling Casino Lines, Ambassador II)
- Fort Lauderdale (Discovery Sun and SeaEscape Island Adventure)
- Fort Myers Beach (Big M Casino)
- Jacksonville (La Cruise Casino)
- Key Largo (SunCruz Casino)
- Mayport (SunCruz Casino)
- Ponce Inlet (SunCruz Casino)
- Port Canaveral (SunCruz Casino)
- Riviera Beach (Palm Beach Princess)<sup>13</sup>

### Cruise Ship Memorandum of Understanding (MOU)

Apart from the gambling day-cruise ships, there are over 80 cruise ships that leave various Florida ports and sail to various locations in the Caribbean and the Gulf. DEP has a MOU with the cruise line professional associations under which cruise ships implement waste and wastewater management practices; however, the gambling vessels do not participate as parties to that operating agreement. The waste management practices and procedures contained within the cruiseline MOU meet or exceed the standards set forth in Florida laws and applicable Florida regulations. Those cruise ships operating under the MOU have agreed to not discharge graywater and blackwater while the ship is underway and proceeding at a speed of not less than 6 knots and within 4 nautical miles from shore or such distance as agreed to with authorities having jurisdiction or provided for by local law except in an emergency, or geographically limited circumstances. The term “graywater” is used to refer to wastewater that is generally incidental to the operation of the ship (i.e., drainage from the dishwasher, shower, laundry, bath and washbasin drains.) The term “blackwater” is used to refer to waste from toilets, urinals, medical sinks, and other similar facilities. Most cruise ships separate blackwater from other wastewaters before processing and discharge.<sup>14</sup>

---

<sup>10</sup> s. 403.121(1)(b), F.S.

<sup>11</sup> s. 403.121(3)(e), F.S.

<sup>12</sup> Alan Richard (past Chair of the Florida Bar’s Admiralty Law Committee and Florida State University, College of Law, Adjunct Professor of Admiralty and Maritime Law) e-mail, March 21, 2006

<sup>13</sup> HB 313 DEP Bill Analysis (2006)

<sup>14</sup> Cruise ship MOU, December 6, 2001

## Florida Ports Waste Infrastructure

The Florida Ports Council researched the capability of Florida's deepwater seaports to pump-out sewage, oily bilge water, untreated or treated gray water, untreated or treated black water, hazardous waste, or biomedical waste from any gambling vessel. The research provided the following results:

- Most seaports have no fixed shore-side capacity to pump-out sewage.
- Those seaports which have provided pump-out sewage services have done so by contracting with tank trucks operated by licensed private waste disposal firms.
- Liquid waste materials, with the exception of hazardous and biomedical waste, are pumped through hoses from vessels to tank trucks.
- Sewage and gray water are processed either at a port's sanitary waste water system (if a system is located at the port) or hauled by the waste disposal firm to an off-site location.
- Blackwater is generally hauled by the waste disposal firms to an off-site location.
- Removal and disposal of hazardous and biomedical waste is generally handled by the vessel operators without interaction or involvement by seaports.

## Brevard County Near Shore Ocean Nutrifcation Analysis

Brevard County contracted the National Oceanographic and Atmospheric Administration (NOAA) to assemble an expert panel to conduct a review of the data and literature contained in the report assembled on January 21, 2005, known as BREVARD COUNTY NEAR SHORE OCEAN NUTRIFICATION ANALYSIS. The expert panel summarized that unless the gambling cruise vessels increase, the available data indicate that gaming vessel discharges are less likely to be regionally significant than cruise ship discharges and that nutrient data presently available do not indicate nutrient elevation.

## Federal Maritime Regulation of Waste

The discharge of sewage is substantially regulated at the federal level and Congress has expressly prohibited states from imposing additional regulations on vessels. Currently, it is permissible under federal regulations to discharge untreated sewage beyond three nautical miles from shore.<sup>15</sup> The DEP does not have jurisdiction for purposes of water pollution regulation over a discharge that is located more than three miles from the Atlantic coastline.<sup>16</sup> It is, therefore, likely that enforcement of this bill beyond the territorial limits of the state would be impossible as the bill is presently drafted.<sup>17</sup>

## Effect of Proposed Change

The bill creates section 376.25, F.S., cited as the "Clean Ocean Act." The bill provides definitions relating to different types of waste and their disposal from a gambling vessel.

## Gambling Vessel Registration

The bill requires the owner or operator of a gambling vessel to annually register under oath with DEP before the vessel enters the waters of the state. The registration must include the following Information:

- Vessel' owners business name or vessel operator's business name for each gambling vessel that is scheduled to be in coastal waters during the calendar year.
- Contact information (telephone numbers, e-mail address, etc.)

---

<sup>15</sup> 33 C.F.R., part 159 (Marine Sanitation Devices)

<sup>16</sup> August 29, 1994, DEP's Regulatory Jurisdiction Memo

<sup>17</sup> Alan Richard (past Chair of the Florida Bar's Admiralty Law Committee and Florida State University, College of Law, Adjunct Professor of Admiralty and Maritime Law) e-mail, March 21, 2006

- Agent identification
- Name, port of registry, passenger and crew capacity of each vessel
- Description of all waste treatment systems for each vessel

### Required Waste Releases

The bill requires all sewage, oily bilge water, untreated or treated graywater, untreated or treated blackwater, hazardous waste, or biomedical waste from any gambling vessel shall be held for release until return to a port facility in accordance with the procedures of the port facility.

The bill authorizes port authorities to establish procedures including a verification process of the contents released for the release of sewage, oily bilge water, untreated or treated graywater, untreated or treated blackwater, hazardous waste, or biomedical waste from gambling vessels at port facilities. The bill also authorizes port authorities to establish and collect a fee not to exceed the costs associated with disposal of the required releases from gambling vessels. There are 14 ports in operation in Florida and approximately 10 gambling vessels operating from various Florida ports which may be impacted by this bill. In addition, the bill appears to be applicable only to those gambling vessels which return to "port facilities;" there also may be gambling vessels which operate from "non-port facilities."

### Prohibited Waste Releases

The bill prohibits an owner or operator of a gambling vessel from releasing any sewage, oily bilge water, untreated or treated graywater, untreated or treated blackwater, hazardous waste, or biomedical waste from the vessel into coastal waters. In the event a gambling vessel releases any of the prohibited waste releases, the owner or operator is required to notify DEP immediately, but not later than 24 hours after the release and convey the following information:

- Date of the release
- Time of the release
- Location of the release
- Volume of the release
- Source of the release
- Remedial actions taken to prevent future releases

### Penalties

The bill provides that a person who violates the prohibition on disposal of such waste is subject to a civil penalty of not more than \$25,000 per violation and instructs the court to take into consideration all relevant circumstances associated with the violation.

The bill authorizes DEP to adopt rules to implement and administer the provisions provided for in the bill.

## C. SECTION DIRECTORY:

Section 1. Creates s. 376.25, F.S., relating to regulation of releases from gambling vessels.

Section 2. Provides the act will take effect January 1, 2007.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: None.

2. Expenditures:

DEP reports the overall cost of implementing the required annual registration program is unknown. In addition, DEP estimates that at least two new Environmental Specialist III level staff positions would be required to implement the provisions of this bill, which would require an annual appropriation of approximately \$110,000.<sup>18</sup>

The rulemaking expense required by the bill would be approximately \$10,000.<sup>19</sup>

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: None.

2. Expenditures: None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill requires gambling vessel owners to pay the cost of compiling and providing registration information to DEP, which is presumably readily available as it is used for other purposes and, thus, relatively inexpensive to provide. The owners also would have to pay whatever fees port facilities charge to dispose of the wastes that their vessels release at those facilities. The cost of disposal and the potential fee is unknown.<sup>20</sup>

The actual cost of on-board waste management facilities is unknown; it would be case-specific, depending on the size of the vessel, number of passengers, and other factors. However, it is assumed that responsible vessel owners are outfitted with waste management facilities and that appropriate upgrades, if any, would represent a relatively small cost when compared with gambling revenues.<sup>21</sup>

D. FISCAL COMMENTS: None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require cities or counties to spend funds or take actions requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

The bill appears to regulate certain waste disposal related solely to “gambling vessels” and “port facilities.” The scope of the bill may need to be expanded to include “all vessels” and “all docking facilities” in order to capture all of the gambling vessels. The bill appears to regulate waste disposal which is currently permissible under federal regulations to discharge untreated sewage beyond three nautical miles from shore.

---

<sup>18</sup> HB 313 DEP Bill Analysis (2006)

<sup>19</sup> Id.

<sup>20</sup> Id.

<sup>21</sup> Id.

B. RULE-MAKING AUTHORITY:

The bill authorizes DEP rulemaking authority to implement and administer the provisions of this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The gambling vessel industry and DEP may wish to explore entering into a MOU similar to the MOU that the Cruise Ship industry currently operates under with DEP. The waste management practices and procedures contained within the MOU meet or exceed the standards set forth in Florida laws and applicable Florida regulations.

DEP Comments

The improvement of waste and wastewater management practices by all sectors of the boating and shipping industries is a laudable and important objective. Unfortunately, there are a number of problems associated with the proposed legislation.

First, beyond the moral opprobrium some feel gambling warrants, what is the policy justification or constitutional authority, in effect, to single out gambling vessels for their waste management practices while ignoring the same problems on similar vessels that do not house gambling? The issue being addressed and, in a limited sense, regulated by the bill is waste management, not gambling. Yet the extent of the regulation, which could equally apply to other classes of ship-owners with similar or equivalent waste management problems, applies only to gambling vessels.

Assuming the imposition of these requirements solely on gambling vessels is appropriate, the bill provides no resources for DEP to implement a registration program nor any authority to assess registration fees. (It does provide fee authority to ports to underwrite the cost of waste disposal.) Without the resources, the program will have no value.

There is no definition of "port" or "port authority" in chapter 376, F.S. Is the meaning of these terms clear in this context? Presumably, they are intended to have the same meaning as in Title XXII, Florida Statutes.

May want to increase civil penalty amount to not more than \$50,000 to be consistent with section 403.722(3)(a), F.S., since hazardous waste is included.

Comments by Alan Richard, (past Chair of the Florida Bar's Admiralty Law Committee and Florida State University, Adjunct Professor of Admiralty and Maritime Law):

This is in response to committee's staff request for my written comments on the bill as it relates to maritime law. Please remember that the Fish and Wildlife Conservation Commission, sitting as agency head, has not had the opportunity to review these comments. As such, they represent my professional opinion only and should not be attributed to the agency. These comments are written from my personal perspective as a member and past Chair of the Florida Bar's Admiralty Law Committee and as an Adjunct Professor of Admiralty and Maritime Law.

House Bill 313 defines the term "gambling vessel" and imposes regulations upon such vessels. The regulations include provisions prohibiting releasing into coastal waters: sewage; treated or untreated graywater; treated or untreated blackwater; oily bilge water; hazardous waste; or biomedical waste. The bill also requires that gambling vessels retain all of such substances on board until return to a port facility where these substances must be discharged in accordance with the port facilities established procedures. Other provisions include registration requirements for gambling vessels, rulemaking requirements for the Department of Environmental Protection, and the establishment by port authorities of procedures for receiving the discharge of those listed substances.

From a maritime law perspective, the bill is problematic with regard to these issues:

- It is, in part, redundant to existing federal law and regulations.
- It is, in part, preempted by or in conflict with existing federal regulations.
- If it is to apply only within Florida's territorial boundaries, it is redundant in part to existing state law.
- If it is to apply upon the high seas beyond Florida's territorial boundaries, it is internally inconsistent and its extraterritorial effect is not stated with sufficient clarity to overcome this ambiguity and the attendant invocation of the rule of lenity.

The provisions of this bill are redundant to federal laws and regulations that already prohibit most of what this bill prohibits. For example, it is unlawful for any vessel subject to the jurisdiction of the United States to discharge oil (including oily bilge water) or any hazardous substance into internal or coastal waters. Of note, the definition of "coastal waters" includes the federal Exclusive Economic Zone, which encompasses waters up to 200 nautical miles out to sea. See, Federal Water Pollution Control Act, as amended, 33 U.S.C. §§ 1251 et seq.; Act to Prevent Pollution from Ships, 1980, as amended, 33 U.S.C. §§ 1901–1911; 33 C.F.R. subchapter O. Discharge of trash or garbage, from plastics to food scraps, is also substantially regulated at the federal level by statutes and regulations adopting and implementing Annexes I, II and V of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (MARPOL 73/78), done at London on February 17, 1978. The penalties for violation are substantial. The statute provides for penalties of up to \$25,000 per day with a minimum mandatory penalty of \$100,000 for grossly negligent discharges. See, 33 U.S.C. § 1321. For intentional discharges or attempts to conceal discharges, the penalties can be enormous. See, U.S. Department of Justice, "Fair Voyager" press release, <http://www.usdoj.gov/usao/nys/Press%20Releases/JULY%2005/Fair%20Voyager%20press%20release.pdf> (July 14, 2005) (\$1.5 million in fines, community service, and four years probation).

Of more significance are the conflicts between the bill and existing federal law or regulation. For example, the discharge of oily water at sea is federally prohibited, but only for discharges containing more than 15 parts per million of oil. See, 33 C.F.R. § 151.10. Within the internal navigable waters of the United States, all discharges of oil or oily mixtures are governed by the Federal Water Pollution Control Act as implemented pursuant to 40 C.F.R. part 110. Discharges of oil permitted under Annex I of MARPOL are expressly permitted under the federal rule. These permissible discharges include, but are not limited to "discharges of oil from a properly functioning vessel engine . . . and any discharges of such oil accumulated in the bilges of a vessel discharged in compliance with MARPOL 73/78, Annex I, as provided in 33 CFR part 151, subpart A." 40 C.F.R. § 110.5.

Similarly, the discharge of sewage is substantially regulated at the federal level and Congress has expressly prohibited states from imposing additional regulations on vessels. See, 33 U.S.C. § 1322 ("no State or political subdivision thereof shall adopt or enforce any statute or regulation of such State or political subdivision with respect to the design, manufacture, or installation or use of any marine sanitation device on any vessel subject to the provisions of this section"). The statute, and the rules implementing the statute, specifically allow the discharge of sewage treated to specifications set forth in the Coast Guard's rules. Moreover, it is permissible under the federal regulations to discharge untreated sewage beyond three nautical miles from shore. See generally, 33 C.F.R. part 159 (Marine Sanitation Devices). Finally, sewage from vessels, within the meaning of 33 U.S.C. § 1322, is specifically excluded from the definition of "pollutant." See, 33 U.S.C. § 1362.

Given the above, the courts are most likely to find that the provisions in the bill prohibiting the discharge of oily water or sewage treated to the requisite standards, and the discharge of untreated sewage beyond three miles from shore to be preempted and unenforceable. See, *U.S. v. Locke*, 529 U.S. 89, 120 S. Ct. 1135, 146 L. Ed. 2d 69 (2000).

The prohibition against the discharge of graywater is also problematic. The bill defines "graywater" as being a part of sewage coming from sinks, baths, lavatories, and laundry. Federal law, however, only include graywater within the definition of sewage for commercial vessels on the Great Lakes. See, 33 U.S.C. § 1322(6). The implication arising from this under the rules of statutory construction is that graywater is not a constituent part of sewage anywhere other than on the Great Lakes. The courts in

Florida "have generally recognized the principle of statutory construction, *expressio unius est exclusio alterius* \_ the mention of one thing implies the exclusion of another." *Rotemi Realty, Inc. v. Act Realty Co., Inc.* 911 So.2d 1181, 1187 (Fla. 2005); accord, *Grenitz v. Tomlian*, 858 So.2d 999, 1002 (Fla. 2003); *Moonlit Waters Apartments, Inc. v. Cauley*, 666 So.2d 898, 900 (Fla. 1996). Therefore, defining of graywater as a constituent part of sewage is likely to fail.

The other issue of federal preemption or conflict as it pertains to graywater is that federal rules implementing the National Pollutant Discharge Elimination System categorically exclude graywater from the NPDES permitting requirements under the Clean Water Act. See, 40 C.F.R. § 122.3(a). Under the rules, all discharges of laundry, shower, and galley sink wastes and all other discharges incidental to the normal operation of a vessel are permissible and exempt from NPDES permitting. In the absence of particularized and overriding local need outweighing the need for uniformity of regulation, it is likely that courts will strike down this portion of the statute. Given the broad geographic scope of the bill and given that the requirement will apply only to gambling vessels and not to other vessels arguably generating substantially more bath, lavatory, and dishwashing effluent, it is unlikely that a particularized necessity can be demonstrated.

Within Florida's geographic boundaries most provisions of the bill not preempted by or in conflict with federal law are already in place. Discharge of oil and other pollutants is prohibited under current state law. § 376.041, Fla. Stat. For this purpose, the term "discharge" includes, but is not limited to, "any spilling, leaking, seeping, pouring, emitting, emptying, or dumping." § 376.031(7), Fla. Stat. Not only does the provision cover discharges which occur within Florida's territorial limits, the statute has explicit extraterritorial effect if the discharge "affects lands and waters within the territorial limits of the state." *Id.* Penalties for discharging oil or other pollutants range up to \$50,000 per day. § 376.16, Fla. Stat. Violators are liable for cleanup costs, § 376.12, Fla. Stat., and can be required to compensate the state for any damage done to the state's natural resources. §§ 376.12(4), 376.121, Fla. Stat.

Similarly, it is already a violation of state law to discharge untreated sewage. §§ 327.53(4), 403.413(5), Fla. Stat. Discharge of untreated sewage from a commercial vessel is presumptively done for a commercial purpose, § 403.413(6)(g), Fla. Stat., and is a felony of the third degree. § 403.413(6)(j), Fla. Stat. Violations of the federal regulations pertaining to marine sanitation devices are also sanctionable under color of state law. See, § 327.53(5), Fla. Stat. Although in theory these provisions apply beyond the territorial limits of the state (the waters of this state include "the high seas when navigated as a part of a journey or ride to or from the shore of this state" § 327.02(38), Fla. Stat.), the extraterritorial effect is not significant because the federal regulations enforceable under the state statute do not apply beyond three nautical miles from shore.

The bill's prohibition of the discharge of solid waste, including hazardous waste, is also redundant to the existing prohibitions under state law. The penalties for discharging solid waste from a vessel into state waters include civil penalties of up to \$10,000 per day, § 403.121(1)(b), Fla., Stat. The Department of Environmental protection may also assess administrative penalties of \$2,000 per day, plus another \$1,000 because the waste is placed in a water body, plus another \$1,000 if the waste is untreated biomedical waste. § 403.121(3)(e), Fla. Stat. The disposal of hazardous wastes is tightly regulated under part IV of chapter 403, Florida Statutes, and disposal violations are similarly severely sanctioned.

Finally, there is an ambiguity in the bill that is likely to cause enforcement problems. Releases of the listed substances are prohibited within "coastal waters," waters the bill defines as being "waters of the Atlantic Ocean or the Gulf of Mexico within the jurisdiction of the state." The bill also, however, requires that: "All sewage, oily bilge water, untreated or treated graywater, untreated or treated blackwater, hazardous waste, or biomedical waste from any gambling vessel shall be held for release until return to a port facility." The bill is not explicit about releases beyond the state's territorial limits.

"[T]he state can regulate and control the operation of vessels and the acts of its citizens in waters outside Florida's territorial limits, provided, however, that the federal government has not preempted state regulation." See, *Skiriotes v. Florida*, 313 U.S. 69, 61 S.Ct. 924, 85 L.Ed. 1193 (1941). That doctrine was well established more than a century ago. See, *Old Dominion S.S. Co. v. Gilmore*, 207 U.S. 398, 28 S.Ct. 133, 52 L.Ed. 264 (1907). Where there is potential for conflict or preemption, an explicit statement of extraterritorial effect is necessary. "[I]f there is to be a confrontation between the

state and the federal government, then the legislature should expressly declare that it is its intent that the statute apply in extraterritorial waters." *Southeastern Fisheries Ass'n, Inc. v. Department of Natural Resources*, 453 So.2d 1351, 1355 (Fla. 1984). "Extraterritorial effect of an enactment is not to be found by implication." *Burns v. Rozen*, 201 So.2d 629, 631 (Fla. 1st DCA 1967). It is, therefore, likely that enforcement of this bill beyond the territorial limits of the state would be impossible as the bill is presently drafted.

#### **IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES**

N/A